

16 JUNE 1947

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16 JUNE 1947

I N D E X
Of
EXHIBITS

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
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1 Monday, 16 June 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment, at
10 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE E. H. NORTHCROFT,
15 Member from the Dominion of New Zealand, not sitting
16 from 0930 to 1600.

17 For the Prosecution Section, same as before.

18 For the Defense Section, same as before.

19 - - -

20 (English to Japanese and Japanese
21 to English interpretation was made by the
22 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: Mr. Cunningham.
4

5 H E I N R I C H S T A H M E R, called as a
6 witness on behalf of the defense, resumed
7 the stand and testified as follows:
8

9 MR. CUNNINGHAM: If the Tribunal please,
10 I now read exhibit 2744. May it be understood
11 that only that part of the exhibit which is read
12 is considered part of the record?

13 THE PRESIDENT: The parts objected to and
14 disallowed will not be read and will not be part
15 of the record.

16 MR. CUNNINGHAM: There is one paragraph
17 that was not objected to, next to the last page,
18 that I want to eliminate due to the fact that I
19 do not wish to divorce it from its context in the
20 rest of the paragraphs in that subdivision.

21 THE PRESIDENT: Read everything except
22 the parts disallowed on objection. You may not read
23 any paragraph, or parts, of, successfully objected to.

24 MR. CUNNINGHAM: By the same token may
25 I eliminate one paragraph that was not objected
to?

STAHLER

1 THE PRESIDENT: That is a matter entirely
2 for you, Mr. Cunningham. You have complete control
3 over the matter which was allowed.

4 Mr. Tavenner.

5 MR. TAVENNER: If the Tribunal please, the
6 prosecution has no objection to the elimination
7 of the paragraph he has mentioned, but I would like
8 to call the Tribunal's attention to the first part
9 of the paragraph on that same page, page 11. I
10 mean to refer to the first paragraph on that page.

11 In stating my objections at the close of
12 the session on Friday, I failed to object to the
13 residue of that paragraph.

14 THE PRESIDENT: I have you down as having
15 objected to the last sentence of that paragraph,
16 beginning with the words "the claim."

17 MR. TAVENNER: Yes. I feel that I should
18 have objected to that entire paragraph.

19 THE PRESIDENT: Well now, do not bring in
20 your afterthoughts here, Mr. Tavenner, unless it is
21 very vital. It is not. However, you please your-
22 self. You can object, if you wish, but I do not
23 think you should. It sets a bad precedent. However,
24 Mr. Cunningham can drop as much as he likes.
25

Mr. Cunningham.

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DIRECT

DIRECT EXAMINATION

1
2 MR. CUNNINGHAM: I now read exhibit 2744,
3 skipping the formal parts.

4 "AFFIDAVIT OF HEINRICH STAHMER, FORMER
5 GERMAN AMBASSADOR TO CHINA (NANKING) AND JAPAN

6 "I, Heinrich Stahmer, being just sworn on
7 oath, do hereby depose and say: I was born in
8 Hamburg, Germany, on 3 May 1892. I entered the
9 army in September 1911 as Ensign and became an
10 officer in February 1913. After the war I left the
11 service and became a businessman. In that capacity
12 I was a director in two German industrial companies
13 of the electric branch. I was a member of the
14 National-Socialist Party since 1932, but having been
15 a freemason, without any possibility of a party
16 career.
17

18 "In June 1935 Ribbentrop, at that time
19 Ambassador at large, engaged me as an employee of
20 the German Government. Some time after entering
21 upon my duties in the office of Ribbentrop, I
22 received a delegation of British ex-servicemen, the
23 first group of this kind to visit Germany. About
24 a month later I was appointed the official representative
25 of the German Ex-Servicemen's Organization in their

1 relations to the similar organizations in foreign
2 countries."

3 Skipping to page two, heading two:

4 "Duties as Liaison

5 "When I was Liaison man between Ribbentrop
6 and Ambassador OSHIMA, my function consisted mainly
7 in that I had to see Ambassador OSHIMA from time to
8 time and to explain to him the ideas and wishes
9 of Ribbentrop, while Ambassador OSHIMA gave me his
10 comments on the cables and instructions he received
11 from his Government; then I had to convey his
12 explanations to Ribbentrop who was very often absent
13 from Berlin. Furthermore, I had sometimes to accompany
14 Ambassador OSHIMA when he travelled in Germany, and
15 had to keep social contacts with him and the members
16 of the Japanese Embassy in Berlin. I was not present
17 at the major conferences between Ribbentrop and
18 Ambassador OSHIMA, except on one or two occasions
19 when they conferred on general matters."

20 Skipping to page three, Paragraph 3, 1st paragraph:

21 "Participation in 1938-39 Negotiations

22 "On account of my function as mentioned
23 above I participated from time to time in the
24 German-Japanese negotiations for a consultation
25 and assistance Pact which took place in Berlin in

1 1938 and 1939. In 1938 the situation in Europe was
2 getting rather tense for Germany after the sensation
3 caused by the 'Anschluss' of Austria, while Japan
4 was in a difficult position as a result of the
5 'China Incident'. (These circumstances caused the
6 two countries to consider the strengthening of the
7 ties existing between Germany, Japan and Italy since
8 the Anti-Comintern Pact of 1936 and 1937.)"

9 Skipping now to the top of page four --
10 I made a mistake -- I wish you would catch the
11 first sentence in the last paragraph on page three.

12 "However, towards the end of 1938 and
13 especially after the change of the Japanese Cabinet
14 from KONOYE to HIRANUMA at the beginning of 1939,
15 Japan was slowing down the negotiations and Germany
16 got the impression that the administration in Japan
17 was not seriously interested in a closer relation
18 with Germany and Italy."

19 And then skipping to the top of page four:

20 "After the end of March, 1939, negotiations
21 continued; but the cables from Tokyo arrived only
22 in long intervals and it seemed no doubt that the
23 new government in Japan had definitely changed its
24 ideas about the aims of the planned treaty. While
25 the negotiations were thus deadlocked, the general

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1 political situation for Germany grew more and more
2 tense. Ribbentrop therefore took the opportunity
3 of the presence of Ambassador OSHIMA and SHIRATORI
4 at Hitler's 50th birthday party on 20 April 1939,
5 to tell them quite frankly that he was not very
6 optimistic concerning the conclusion of the above
7 mentioned agreement; that, as Germany wished under
8 all circumstances to maintain most friendly with
9 Japan, he felt himself obliged to inform them
10 confidentially that under the then prevailing conditions
11 Germany might feel herself forced to approach U.S.S.R.
12 with the aim of concluding a non-aggression pact;
13 he assured them, however, that nothing yet has been
14 done heretofore."

15 Then, skipping down to the last paragraph
16 on page four.

17 THE PRESIDENT: I have no objection noted
18 to the first part of the next paragraph.

19 MR. CUNNINGHAM: Yes. Down through "May
20 and June 1939":

21 "In order to find a way out of the deadlock,
22 in May and June 1939 some officials of the Japanese
23 Embassy in Berlin had several conversations with the
24 Undersecretary of State D. Gauss, who was the legal
25 expert of the German Foreign Office, but without

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1 success on either side."

2 That is where your objection began on that.

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1 THE PRESIDENT: Then you go to the bottom
2 of the page.

3 MR. CUNNINGHAM: Yes.

4 THE PRESIDENT: "The German Embassy in Tokyo
5 was not informed for some time"; and then you go to
6 the bottom of the page.

7 MR. CUNNINGHAM: Then I go to the top of
8 page 5.

9 THE PRESIDENT: No. to the bottom of page 4:
10 "The negotiations were completely broken off when
11 the non-aggression pact between Germany and the Soviet
12 Russia was concluded on 23 August 1939"; and then con-
13 tinue on page 5.

14 MR. CUNNINGHAM: The top of page 5. paragraph
15 4:

16 (Reading) "The negotiations were completely
17 broken off" -- You just read it.

18 THE PRESIDENT: But you should read it.

19 MR. CUNNINGHAM (reading): "The negotiations
20 were completely broken off when the non-aggression
21 pact between Germany and the Soviet Russia was con-
22 cluded on 23 August 1939.

23 "German-Russian negotiations resulting in
24 this Pact were kept secret from the Japanese. When
25 the matter was agreed upon between Germany and Russia,

1 I was ordered by Ribbentrop to go to Ambassador OSHIMA
2 and tell him the fact. The Ambassador's attitude was
3 perfectly gentlemanlike, but he could not conceal that
4 he was extremely disappointed, and he told me so."

5 The next two paragraphs, I understand, are
6 out.

7 THE PRESIDENT: I have the next one allowed.
8 It may be wrongly marked.

9 MR. CUNNINGHAM (reading): "5. VISITS TO
10 TOKYO

11 "I visited Japan for the first time in
12 February, 1940, when I accompanied the President of the
13 German Red Cross, the Duke of Koburg, on his visit to
14 the United States. We travelled via Siberia and Japan,
15 staying in Tokyo for four or five days only. On the
16 return journey we touched Japan in May 1940 and stayed
17 in Tokyo about a fortnight. That was my second visit.
18 (The Duke of Koburg's visit to the United States was
19 made in order to thank the American Red Cross for its
20 activities in Poland and Germany during the German-
21 Polish War of the American Red Cross to him. No
22 political purpose was hereby pursued.)

23 "During my stay in Tokyo we made courtesy
24 calls on the Japanese Foreign Office and the Japanese
25 Red Cross. On our way back through Japan the Duke

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1 and I delivered a congratulatory message to the Emper-
2 or of Japan on the celebration of the 2600th anni-
3 versary of the Dynasty.

4 "I met my old friend OSHIMA and also SHIRATORI,
5 whom I had met once or twice in Berlin before on social
6 occasions. As far as I remember I saw them twice,
7 once during a dinner in the German Embassy and a second
8 time on occasion of a Japanese lunch in Tokyo, where I
9 do not remember the host. We talked together, but
10 not about political questions. Mr. OSHIMA was then in
11 complete retirement and did not take any part in actual
12 politics to my knowledge.

13 "During my two visits together with the Duke
14 of Koburg I sent one telegram each time to the Foreign
15 Minister or to the Secretary of State in Berlin, where-
16 in I gave a short survey of my impressions of the
17 general political situation. After my return to Ger-
18 many I made no further verbal or written report to
19 anybody.

20 "My third visit to Japan was in the year 1940,
21 when I upon instructions from Ribbentrop, arrived in
22 Tokyo via Siberia on 7 September and stayed there
23 until the beginning of October, 1940. During my stay
24 in Tokyo, I together with Ambassador Ott, negotiated
25 with Foreign Minister MATSUOKA, on the Japanese side,

1 the Three Powers Pact.

2 "6. NEGOTIATIONS-TRI-PARTITE PACT

3 "In July, 1940, in Japan, the YONAI Cabinet
4 was replaced by the KONOYE Cabinet as a result of the
5 increasing American pressure. As far as we know, Ger-
6 many understood at that time the KONOYE Cabinet was
7 endeavoring to promote the idea of improving the rela-
8 tions with the United States; however, at the same time
9 it wanted a closer contact with Germany with a view of
10 strengthening Japan's political position in consummat-
11 ing the negotiations with the United States. Accord-
12 ingly, Foreign Minister MATSUOKA began to throw out
13 his feelers very cautiously via the Japanese Ambassa-
14 dor KURUSU in Berlin and the German Ambassador Ott in
15 Tokyo. Incoming telegrams from Ambassador Ott of the
16 German Embassy in Tokyo and verbal information from
17 Ambassador KURUSU in Berlin created a completely con-
18 fused picture of the Japanese attitude from the viewpoint
19 of the German Government, which eventually could not
20 figure out what the Japanese Government had in mind.

21 "In view of the confused picture and under
22 the pressure of time, I was ordered by Ribbentrop to
23 go to Tokyo. Ribbentrop's order included the following
24 main points:

25 "(a) To find out the actual intention of the

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Japanese Government towards Germany;

1 "(b) To take up immediately negotiations in
2 presence of Ambassador Ott, should the Japanese show
3 the intention to conclude a new agreement with Germany;

4 "(c) To report immediately every detail in
5 case of negotiations, of which every item had to be
6 approved by Berlin before continuing.

7 "After arriving in Tokyo on 7 September 1940,
8 I was very cautious about my conduct, in accordance
9 with Ribbentrop's instructions. Above all, I avoided
10 to talk to any Japanese other than Foreign Minister
11 MATSUOKA on my mission to Japan. I met him first on
12 9 September 1940, together with Ott, and explained to
13 him the German intention to avoid any further spread-
14 ing of the war, to keep the United States out of war,
15 and create, if possible, a platform on which peace
16 could be built. I declared further that Germany had
17 no intention to draw Japan in the European war, and was
18 ready, if requested by Japan, to use her good offices
19 in order to promote friendly relations between Japan
20 and Soviet Russia, and to contribute to the settle-
21 ment of the China Incident.

22 "MATSUOKA agreed wholeheartedly. I reported
23 this to Berlin, and received instructions in return
24 from Ribbentrop to begin with the negotiations of an
25

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1 agreement. The negotiations showed quick progress and
2 the Three Powers Pact was signed on 27 September 1940.

3 "In the course of the negotiations I had time
4 to get a good personal impression of Minister MATSUOKA.
5 He spoke very good English and was very proud of hav-
6 ing had an education in the United States. On the
7 first meeting we had he began to talk about half an
8 hour of his life, his career, his connections and his
9 importance and told me himself" -- and I wish to insert
10 "his nickname," because that was omitted -- "his nick-
11 name, which I heard later several times confirmed,
12 'I, my, me, myself.' He seemed to believe to be just
13 the right man as political leader in this decisive
14 time for Japan and my later private talks with him,
15 when he visited Germany in the next year, confirmed
16 this impression.

17 "Mr. OSHIMA had no official position at that
18 time, and no concern with these negotiations as far as
19 I know. During my stay in Tokyo I called on him, be-
20 cause he was an old friend of mine, and met him on
21 several social occasions. However, I neither revealed
22 to him the negotiations for the Three Powers Pact nor
23 asked I for his advice concerning the matter.

24 "7. AMBASSADOR OSHIMA'S RETURN TO GERMANY

25 "When Ambassador OSHIMA came to Germany for

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1 the second time as Japanese Ambassador on February
2 1941, I was again Liaison man between Ribbentrop and
3 Ambassador OSHIMA. However, as in the previous time,
4 I seldom attended personally the conversations between
5 them.

6 "In his conversations with me Ambassador OSHIMA
7 never committed Japan to attack Singapore or U.S.S.R.;
8 I have also no recollection that Ribbentrop ever told
9 me that Ambassador OSHIMA did so in conversation with
10 him.

11 "Although I always was on friendly terms with
12 Ambassador OSHIMA during the whole period of my con-
13 tact with him, he never told me any military plans or
14 revealed me any secrets. Besides, I myself had nothing
15 to do with military matters, these being the task of
16 Generals and Admirals; neither did Ribbentrop officially.

17 "Ambassador OSHIMA was many years in Germany
18 and spoke German well. Being an outspoken personality,
19 he was well liked by the German people generally.

20 "8. FOREIGN MINISTER MATSUOKA'S CONFERENCE
21 WITH HITLER

22 "When Foreign Minister MATSUOKA visited Ger-
23 many in March 1941, I was ordered by Ribbentrop one or
24 two days before his arrival to accompany him during his
25 stay in Germany, and travelled with him on his trip in

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1 in Germany. I was not concerned with the preparation
2 of the program of his trip, which had already been
3 finished by the protocol Chief, Baron Doernburg, when
4 I received the order. Immediately after that I left
5 Berlin by special train and met Minister MATSUOKA at
6 Malkinia, a German-Russian border station. I accom-
7 panied him to Berlin and was present when he made his
8 first courtesy call on Ribbentrop; however, I was not
9 present at the subsequent political conversations be-
10 tween Foreign Minister MATSUOKA and Hitler, Ribbentrop
11 and Goering.

12 "Ambassador Ott had obtained permission to
13 come to Berlin from Tokyo, to be present at the time of
14 Minister MATSUOKA's stay in Berlin. He attended some
15 of these meetings.

16 "I went with Minister MATSUOKA to Siemens-
17 Schuckert Works in Berlin, which he specially desired
18 to see. When he left Berlin for Italy, I accompanied
19 him as far as the Italian border, and after he returned
20 from Rome I accompanied him again from Berlin to Mal-
21 kinia. Personally, I had no political talks with
22 Foreign Minister MATSUOKA.

23 "I did not talk at that time with Ribbentrop
24 as to what purpose he was pursuing in his conversations
25 with Foreign Minister MATSUOKA, also I never heard

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1 from Ribbentrop that Minister MATSUOKA made any commit-
2 ment. Beside the fact that Ribbentrop was always very
3 seclusive and usually talked to one only of what was
4 absolutely necessary for the work of the moment, my
5 personal relation with Ribbentrop was rather strained
6 at that time.

7 "Before the arrival of Foreign Minister
8 MATSUOKA in Germany I heard nothing from Ambassador
9 OSHIMA about the arrangements or the items to be taken
10 up by Minister MATSUOKA in Berlin, nor any wishes or
11 ideas which he wanted to convey to Ribbentrop regard-
12 ing the matter. During Minister MATSUOKA's stay in
13 Berlin I only met Ambassador OSHIMA at various lunch-
14 eons. I do not believe that Ambassador OSHIMA had
15 much influence on Minister MATSUOKA and I had the feel-
16 ing that their personal relations were not close, both
17 being very different personalities. Foreign Minister
18 MATSUOKA told me absolutely nothing about Ambassador
19 OSHIMA.
20

21 "9. RECORDS KEPT IN GERMAN FOREIGN OFFICE

22 "It was the practice of the German Foreign
23 Office that no stenographic records were taken of the
24 conversations between Hitler and Ribbentrop and the
25 prominent foreign statesmen or ambassadors. Only un-
official minutes were made afterwards either as dictated

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1 by Hitler or Ribbentrop or by attending interpreters,
2 mostly by Minister Schmidt. These minutes were, as
3 being unofficial, never handed to the foreign partici-
4 pants of the conversations or shown to them for confir-
5 mation.

6 "For internal use these records were only
7 regarded as a sort of aide memoire, but never as docu-
8 mentary proof. I remember that I was present at one
9 occasion during a reception of foreign ex-servicemen,
10 when Minister Schmidt, who acted as official inter-
11 preter, wrote down only five or six single words from
12 a discourse of over twenty minutes and then began to
13 translate. Though he had very good memory sometimes
14 arose a difference of opinion between Ribbentrop and
15 Schmidt about what was really said.

16 "Ribbentrop disliked very much that the foreign
17 representatives would make direct contacts with high
18 German officials other than those in the foreign ser-
19 vice. I remember several occasions when I was ordered
20 by Ribbentrop to try as politely as possible to prevent
21 foreign diplomats from this practice. On account of
22 this outspoken wish of Ribbentrop no official relations
23 whatsoever existed in Germany between the foreign Em-
24 bassies (including Japanese) or Legations and the Ger-
25 man ministries other than the Foreign Office.

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1 "10. AMBASSADOR STAHMER SENT TO CHINA.

2 " I was appointed German Ambassador to China
3 (Nanking) in 1941, left Germany with Councillor Bolze
4 on 18 October 1941 and went to Nanking via South
5 America and Japan.

6 "While I was on the boat in the Pacific, I
7 heard of the outbreak of the Japanese-American war.
8 Until my departure from Germany the German Government,
9 as far as I know, had no notion that the Japanese-
10 American relation was strained to such an extent.

11 "11. AMBASSADOR STAHMER MOVED TO TOKYO

12 "I was appointed German Ambassador to Japan
13 in December, 1942 and arrived in Tokyo on 28 January
14 1943. During my stay as German Ambassador in Japan I
15 had very cordial personal relations with Foreign
16 Minister SHIGEMITSU and other officials of the Japanese
17 Foreign Office. The political collaboration between
18 Germany and Japan was however not close, and the com-
19 missions created by the Three Powers Pact was nothing
20 but a formal show without any practical results. In
21 the two or three meetings when I was present I did not
22 hear a single word which was not to be found in the
23 newspapers as well.

24 "Although I was not concerned with military
25 matters, as far as I know there existed between Germany

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1 and Japan no military or operational collaboration
2 either. The main reason was, as I believe, the fact
3 that while Germany was engaged in a life and death
4 struggle with U.S.S.R. Japan was completely absorbed
5 in the war with the United States and remained neutral
6 to the German-Russian war. Moreover, the two countries
7 were so far apart and no regular means of communications
8 existed except radio, making the personal traffic al-
9 most impossible.

10 "12. ATTITUDE OF AMBASSADOR OSHIMA

11 "During all of my conversations, negotiations
12 and conferences with him, Ambassador OSHIMA took no
13 positive personal stand on any of the controversial
14 issues which we discussed but reserved his judgment
15 until after he had submitted the matter to his govern-
16 ment, unless he had received prior instructions.

17 "In our discussions personal opinions or
18 suggestions would have no bearing, for in diplomacy it
19 is the government speaking and not the individual.

20 "With our checks on information we nearly al-
21 ways knew the attitude of the Japanese Government be-
22 fore we received official communication thru Ambassador
23 OSHIMA or any other ambassador.

24 "When action was taken in Japan we knew of it
25 at the same time or sooner than Ambassador OSHIMA or

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1 his predecessors or successors. Rarely did we find
2 out anything really new from the ambassador. Hearing
3 it from him merely verified or made official what other
4 sources of information had supplied."

5 Page 10.

6 THE PRESIDENT: Are you omitting the next
7 paragraph deliberately?

8 MR. CUNNINGHAM: I beg your pardon.

9 THE PRESIDENT: I suppose you know what you
10 are doing. I won't say anything.

11 MR. CUNNINGHAM: Well, I would appreciate
12 any suggestion you have.

13 THE PRESIDENT: Well, you should know what is --
14 what should be omitted.

15 MR. CUNNINGHAM: I go to paragraph 13.

16 Is there some confusion that I don't know about?

17 THE PRESIDENT: You control the matter we have
18 admitted. It is for you to read as much or as little
19 as you like of the matter admitted.

20 MR. CUNNINGHAM: "Paragraph 13. CIRCUMSTANCES
21 SURROUNDING APPOINTMENT OF GENERAL OTT AS AMBASSADOR --"

22 THE PRESIDENT: You see, you are telling us
23 the page you are reading, and it is different from the
24 copies we have. We are still on page 9, and you are
25 proceeding now to read part of page 9, but you call it 10

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1 MR. CUNNINGHAM: Oh, well, yes. Well, I am
2 reading at the bottom of page 9, and I am now going to
3 the top of page 10 of my copy, paragraph 13 entitled
4 "CIRCUMSTANCES SURROUNDING APPOINTMENT OF GENERAL OTT
5 AS AMBASSADOR."

6 THE PRESIDENT: I have a note from a colleague
7 that there are two kinds of copies. Apparently, some
8 of us have the same numbering you have, others have not.
9 Colleagues on either side have the same copies as I.

10 So, proceed to read paragraph 13. I think that
11 is the way to do it.

12 MR. CUNNINGHAM (Reading continued):

13 "Ambassador v. Dirksen, who was in Tokyo al-
14 ready some years, could not stand the climate, suffer-
15 ing from bronchial asthma, and had asked several times
16 to be transferred. Ott, who was in Tokyo since 1934
17 and Military Attache in 1935, was very interested to
18 become ambassador. With the assistance of General
19 Keitel and the party leader in Japan, Mr. Hillmann,
20 who worked closely together, he was appointed Ambassador
21 to Tokyo in the beginning of 1938. Ribbentrop, who be-
22 came Foreign Minister in February, 1938, did not object.
23 On the contrary, he assured Ambassador Ott several times
24 of his full confidence. When the idea of strengthening
25 the relations with Japan came up Ott was ordered to

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1 Berlin in the summer of 1938, and in his presence the
2 new course was talked over with Hitler and Ribbentrop.
3 At this occasion Hitler made him a member of the party,
4 which he could not become earlier, being an officer, to
5 whom membership of the party was forbidden. It was
6 expected from the German Ambassador in Tokyo to main-
7 tain friendly relations with parties in power, to get
8 a survey of the changing political situation, and to
9 report in this line to the Foreign Office.

10 "14. LACK OF EFFECTIVE COLLABORATION

11 "The greatest efforts in Germany during my
12 time were expended towards the establishment of closest
13 possible ties with England and France. Much more work,
14 money, propaganda, and persons were used in that line.
15 The German-English Society and the German-French Society
16 were always regarded as more important than the corre-
17 spondent German-Japanese Society. After the failure of
18 the first negotiations with Japan in 1939, Germany and
19 Japan had not proposed any agreements for more than a
20 year, until Japan from her side again began in July,
21 1940, to take up new diplomatic negotiations.

22 "I cannot see any way where Japan assisted
23 Germany in the war in any way."

24 THE PRESIDENT: You are to leave out a sentence.

25 MR. CUNNINGHAM: "There was no joint German-

1 Japanese war, in fact there were two wars, a German
2 and a Japanese."

3 Then, skipping the next sentence --

4 THE PRESIDENT: According to my marking, the
5 first sentence is disallowed, and the balance is allowed.

6 MR. CUNNINGHAM: According to my marking, the
7 second sentence is out.

8 THE PRESIDENT: Read it that way.

9 MR. CUNNINGHAM: Going to the third sentence:

10 "This was due to the fact that there existed
11 no joint high command, no plans for teamwork were
12 worked out or even proposed, because there was no
13 connection between the two countries except cables and
14 occasional visits of submarines. For instance there
15 cannot be even the slightest comparison with the ex-
16 cellent teamwork of the Generals Eisenhower and Mont-
17 gomery in Europe and Africa, and MacArthur and Mount-
18 batten in the Pacific and India. Besides, the Japa-
19 nese had their own ideas about the Pacific war and
20 never made serious efforts for instance to stop the
21 transport of United States goods to the Soviet Union.
22 Furthermore, the Japanese ideas of an ally were differ-
23 ent than that of other countries. When I was in China,
24 even in the official Japanese proclamations the Germans
25 were noted as 'friendly neutrals,' not as allies."

STAHMER

DIRECT

1 Going to the top of page 11:

2 "CONCLUSION

3 "When I was occupied with the negotiations of
4 the German-Italian-Japanese Agreement it was the general
5 idea in 1938 and 1939 to avoid threatening political
6 isolation and to prevent war through forming a defens-
7 ive alliance, and thereby strengthening the inter-
8 national political situation in general. In 1940,
9 after Germany was already in the war, the idea was to
10 avoid the further outspreading of the war by prevent-
11 ing the United States from entering the war, and to
12 establish a platform for peace. Never have I heard
13 from any side any word about a plan of dominating the
14 world."

15 Then, that concludes: signed "Heinrich
16 Stahmer."

STAHMER

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1 MR. CUNNINGHAM: Next, your Honors, I should
2 like to present defense document 1714, an additional
3 sworn statement by the witness, and I ask that the
4 document be presented to the witness.

5 THE PRESIDENT: Mr. Tavenner.

6 MR. TAVENNER: I understand counsel does not
7 offer the document at this time but is merely present-
8 ing it to the witness.

9 THE PRESIDENT: It was served on the Judges
10 for the first time today. Of course, he is at liberty
11 to show the document to the witness. Show the document
12 to the witness.

13 (Whereupon, a document was handed
14 to the witness.)

15 MR. CUNNINGHAM: I ask you to examine defense
16 document 1714 and ask you to state if that is your sworn
17 statement.

18 (Addressing Clerk of the Court) The original
19 is there. The original is there with the signature on
20 the back page.

21 I ask you to examine the document and state
22 whether or not all the statements contained therein are
23 true.

24 THE PRESIDENT: His signature would relieve
25 him of the necessity to reading the whole document

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19 is there. The original is there with the signature on
20 the back page.

21 I ask you to examine the document and state
22 whether or not all the statements contained therein are
23 true.

24 THE PRESIDENT: His signature would relieve
25 him of the necessity to reading the whole document

1 through, Mr. Cunningham. We haven't time to waste
2 while he reads it through.

3 MR. CUNNINGHAM: Well, the witness is familiar
4 with the document.

5 THE PRESIDENT: This is a copy, you know. That
6 copy could have been made independently of the document.
7 Before he can be sure he must read the lot, but if he
8 had his signature he need not do so. Of course, if you
9 assume that is a carbon copy of the original that is
10 all right, but you can make no such assumption about
11 carbon copies. Let him assume, if he wants, that it
12 is a carbon copy and let him say, "Yes, that is the same
13 as the original," but it will be an assumption.

14 MR. CUNNINGHAM: Well, I personally delivered
15 the signed copy to the clerk's office and I can't do
16 any more than that. Now I am trying to substitute a
17 copy of it until they find the one with the original
18 signature on it.

19 THE PRESIDENT: Is that copy the same as the
20 original you signed?

21 THE WITNESS: Yes, it is the same copy, and
22 it is true.

23 THE PRESIDENT: Mr. Tavenner.

24 MR. TAVENNER: If the Tribunal please, in the
25 interest of saving time, I have a number of objections

STAHMER

DIRECT

1 to make regarding specific questions and answers and,
2 if counsel is willing, we could proceed with that matter
3 before the document is formally tendered.

4 THE PRESIDENT: I think that is the desirable
5 thing to do because if it is tendered we will have to
6 take the point that we weren't served twenty-four hours
7 in advance -- I mean three days in advance.

8 MR. CUNNINGHAM: Well, your Honor, there is
9 a misunderstanding about that. As I understood it,
10 the other day you said that the twenty-four hour rule
11 now applied to affidavits.

12 THE PRESIDENT: As far as I am concerned,
13 twenty-four hours will do. But that isn't the rule.
14 Three days. That is for judges copies.

15 MR. CUNNINGHAM: Well, I understand it you
16 changed that rule the other day and said the same thing
17 applied to you as applied to the prosecution -- twenty-
18 four hours in advance. Now I can't keep track it seems.

19 THE PRESIDENT: All the judges disclaim that
20 any such statement was made. Unfortunately for you,
21 there is a record to correct you.

22 MR. CUNNINGHAM: Well, anyway the documents
23 have certainly been in circulation for a week and I
24 can't understand why the judges don't get their copies.
25 I can't control that.

STAHMER

DIRECT

1 But, your Honors, as to the order of making
2 objections, it seems to me that it would be very
3 difficult to sustain an objection in the middle of
4 the testimony, whereas it would be more practicable
5 to rule on the objections as they come in their logical
6 order, because how are you going to take the middle of
7 a document here and say, "This has no bearing," when
8 you can't, unless you read the balance of the document,
9 know what has gone on before?

10 THE PRESIDENT: The question could not arise
11 if this were in narrative form. The mere fact that it
12 is in the form of questions and answers makes no differ-
13 ence. We would still have to read the lot, perhaps.

14 Here is the original now, I understand.

15 MR. CUNNINGHAM: Well, your Honor, the reason
16 the question arises is that I can't see how this
17 particular document could be reduced to narrative form
18 because it doesn't lend itself to that sort of treat-
19 ment and that is the reason I had to deal with it in
20 this way.

21 THE PRESIDENT: If, in the course of writing
22 our judgment, we have to deal with this particular
23 interrogation, we certainly shall put it in narrative
24 form and we will have no difficulty.

25 Mr. Tavenner.

1 MR. TAVENNER: If the Tribunal please, the
2 prosecution insists on making its objections to these
3 questions and answers before they are actually reached
4 in the reading. The attention of the Tribunal is
5 called to the fact that on the first occasion that this
6 document was mentioned counsel proposed to ask these
7 questions without serving the document on the prosecu-
8 tion. Now an effort is being made to introduce the
9 document piecemeal. The defense was directed by the
10 Tribunal to put this document in affidavit form but,
11 in the interest of saving time, the prosecution doesn't
12 insist on that.

13 THE PRESIDENT: But we have a strong objection
14 to an affidavit being made and then followed by hundreds
15 of questions as Mr. Cunningham proposed. He anticipates
16 that by getting another affidavit. All we are saying
17 is that copies of that affidavit were not served on the
18 judges three days in advance of the attempt to use it.
19 We can hardly say we won't take two affidavits from the
20 same witness, much as we dislike doing so.

21 MR. CUNNINGHAM: Well, your Honor, charges are
22 made in the Indictment in specific, short, snappy
23 sentences that certainly cannot very well be answered
24 in narrative form the way I --

25 THE PRESIDENT: All I can say is that the

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1 affidavit cannot be read as a document in evidence
2 unless that requirement of service is met, but we may
3 have a discussion on the preliminary question of whether
4 such evidence could be admitted at all. That is what
5 Mr. Tavenner wants. Your only reply is that this is
6 an interrogation and not a narrative, and there is no
7 difference in substance between the two for our purposes.

8 MR. CUNNINGHAM: Well, your Honor, what about
9 this for a compromise: I suggest that the document
10 be offered in evidence, that the prosecution be per-
11 mitted to make their objections in toto, that we be
12 permitted to read the document and waive the thirty-six
13 or seventy-two hour rule of the Court, and that we be
14 permitted to proceed with this evidence. It is slowing
15 down the procedure.

16 THE PRESIDENT: In other words, that Mr.
17 Cunningham be placed above the rules but everybody else
18 be left subject to them.

19 MR. CUNNINGHAM: Well, as I understand it,
20 your Honor, these copies were delivered to the judges
21 on Friday, and I think that the rule of seventy-two
22 hours is probably a technical one. If there is an
23 advantage that we are taking away from the Members of
24 the bench on account of it, why, it would be a simple
25 matter for the judges to take this and read it in

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1 THE PRESIDENT: The rules must be observed.
2 I will say no more about it. This is obstructionist.

3 MR. CUNNINGHAM: Well, now, your Honor, I
4 can't follow the position. What are we to do now?

5 THE PRESIDENT: You will agree to Mr. Tavenner's
6 suggestion. If you don't, we will make you. We also
7 insist on that course ourselves. We have the right
8 to do it. The Charter gives us the power and we will
9 exercise it.

10 Let us have a discussion on the admissibility
11 of this interrogation straightaway. We will treat this
12 as an argument on the question whether this interrogation
13 can be admitted; and we will hear you first, Mr.
14 Tavenner.

15 MR. TAVENNER: If the Tribunal please, this
16 interrogation is so drawn that virtually every question
17 is in the form of a leading question, and much of it
18 deals with irrelevant and immaterial matters.

19 THE PRESIDENT: We have admitted affidavits in
20 the form of interrogations previously, Mr. Tavenner.
21 If I recollect rightly, they came from the prosecution's
22 side as well as from the defense side. We must be
23 consistent.

24 MR. TAVENNER: I was not objecting on the
25 ground that the document is in the form of questions

STAHMER

DIRECT

and answers, because that procedure has been followed
1 by both the prosecution and the defense. It is not
2 my purpose to rely upon the objection that the ques-
3 tions are leading where that is the sole objection.
4

5 THE PRESIDENT: Some of the prosecution's
6 questions in these cases were certainly leading.

7 MR. TAVENNER: I merely desire that the leading
8 form of the question be taken into consideration along
9 with the other objections which I will make.

10 THE PRESIDENT: We have repeatedly said that
11 a leading question reduces the value of an answer
12 considerably; sometimes to the vanishing point.

13 MR. TAVENNER: Specific objection is made to
14 all of the questions and answers on page 1 with the
15 exception of the first question.

16 As to question 2, the question and the answer
17 elicited are repetitive, in that the same matter is
18 considered in the first paragraph of section 12,
19 page 9 of the affidavit.

20 Question No. 3 and the answer elicited are
21 objectionable on the same ground in that the matter is
22 covered by the affidavit on page 7.

23 Question 4 is likewise repetitive in that it
24 is the same matter as is considered in question 2 and
25 on page 12 of the affidavit.

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DIRECT

1 Objection is made to question 5 in that the
2 subject matter of that question is entirely irrelevant
3 and immaterial to any issue here.

4 Question 6 is objected to on the ground that
5 the witness could not possibly know of the instructions
6 that OSHIMA received or did not receive from
7 his government, and, therefore, his answer proves
8 nothing.

9 On page 2, objection is made to question 10
10 in that the interest of OSHIMA in party politics in
11 Japan could not be a matter within the knowledge of
12 the witness; and even if true, the answer is irrelevant
13 and immaterial.

14 Question 11 is divided into two questions --
15 I believe it is three questions. Objection is made
16 to the question in so far as it relates to the foreign
17 policies of the various Japanese cabinets, in so far
18 as the witness answers that they had merely different
19 political ideas. It has no probative value. The
20 last part of question 11 refers to the same question
21 of the interest of OSHIMA in political parties in
22 Japan, and for that reason is repetitive in that it
23 is covered in questions 2, 4, 10, and also on page 12
24 of the affidavit.

25 Question 12 is objected to. The witness

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1 could not possibly know of the official acts of
2 OSHIMA based upon telegrams and messages and commissions
3 of the Japanese Government. The answer elicited has
4 no probative value.

5 The next question relates to the expression
6 of views by the witness -- rather, the views of OSHIMA.
7 The witness could not be qualified to express an
8 opinion of that character.

9 The following question regarding the conflict
10 of views between foreign minister and ambassador is
11 a hypothetical question which is objected to.

12 THE PRESIDENT: We will recess for fifteen
13 minutes.

14 (Whereupon, at 1045, a recess was
15 taken until 1100, after which the proceedings
16 were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: If the Tribunal please, objec-
5 tion is made to Question 13, on page 3, which is in
6 two parts, on the ground that the question calls for
7 a construction of international law by the witness.

8 Question 14 is objected to, or rather, the
9 answer to that question is objected to, on the ground
10 that, after stating that he does not know, he attempts
11 to give his belief about the subject matter of the
12 question; and, in addition, the matter is repetitive.

13 On page 4, objection is made to the first
14 question on the ground that it is repetitive. The
15 same general subject matter is covered in questions
16 2, 4, 12 and others.

17 The second question is objected to on the
18 ground that it is repetitive and the answer, as it
19 is noticed, speaks of the witness' impression, so
20 the additional objection is made that there is no
21 probative value.

22 Question 3 is likewise repetitive -- I
23 believe I am in error in stating that that is
24 repetitive -- but the answer to the question is of
25 a purely repetitive character and, for that reason,

1 is objected to.

2 The 4th question is repetitive, and, in
3 addition, the witness speaks of his impression.

4 The 5th question -- both the first and
5 second questions under it are repetitive.

6 On page 5, the answer to the last
7 question is objected to on the ground that it is
8 virtually a repetition of a statement appearing
9 in the affidavit. It is therefore repetitive and
10 should be excluded.

11 On page 6, the answer to question 3 is
12 repetitive, the same matter having been dealt with
13 in the affidavit, and part of it, in fact, seems to
14 be almost a quotation of the affidavit.

15 On page 7, the answer to question 8: objec-
16 tion is made to the answer, with the exception of the
17 first four words, "I do not know."

18 On page 8, question 14, the witness is asked
19 to state his impressions with regard to certain
20 matters relating to the foreign policy of Japan.
21 Objection is made on the ground that the witness is
22 not entitled to state his impressions or opinions.

23 At the top of page 9, the answer of the
24 witness to question 21 is objected to on the ground
25 that, after having stated that he had never been told

1 regarding the potential character of the Soviet Union's
2 participation in the Tri-Partite Pact, he proceeds
3 then to state his personal beliefs.

4 Objection is made to the answer to question
5 22 in that it is merely a statement of the witness'
6 belief and is made for the purpose of argument, and
7 should be excluded for both reasons.

8 Question 26 is objected to on the ground that
9 it is repetitive, the same matter having been stated
10 in the affidavit.

11 The next question even goes so far -- that
12 is 27 --- as to ask whether it was likely that a
13 certain conversation had taken place. It is, of course,
14 objected to on the ground that it calls for a merely
15 speculative answer and is grossly leading.

16 Question 28 is objected to on the ground
17 that it calls for the witness's opinion as to what
18 MATSUOKA'S opinions were.

19 This constitutes the objections I had in mind.

20 THE PRESIDENT: Mr. Cunningham.

21 MR. CUNNINGHAM: In answer to the objections
22 made by the prosecutor, I suggest that each question
23 seems to tie in very definitely with some specific
24 charge made in the Indictment, and that was the pur-
25 pose. Each question answers some specific charge

STAHMER

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1 made by the prosecution in their evidence.

2 On question number 2 OSHIMA is charged with
3 violating instructions. This is to answer that
4 charge.

5 No. 3: He is charged with participating
6 in the Tri-Partite Pact. This is to answer that
7 charge.

8 PRESIDENT: I think you overlooked the fact
9 that it is OSHIMA who is charged, not Stahmer.

10 MR. CUNNINGHAM: No. 4: The question whether
11 or not Mr. OSHIMA did anything else beside his ambass-
12 adorial duties involved, and this answer in par-
13 agraph 4, question 4, seems to take care of that.

14 Question 5: There is involved here a ques-
15 tion, -- to what extent should an ambassador be held
16 responsible for the policy of his government. This
17 hits that right between the eyes.

18 No. 6: It is usual and customary in matters
19 of diplomatic procedure for an ambassador to show his
20 telegrams to the representatives of the other govern-
21 ment in order to show good faith in their transactions.

22 Question No. 10, on page 2: There is a
23 question whether or not an ambassador engages in party
24 politics or is above party politics, and this answer
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23 question whether or not an ambassador engages in party
24 politics or is above party politics, and this answer
25 takes care of this contention.

1 On No. 10, the question arises, did the
2 Japanese leaders carry on a continuity of foreign
3 policy or did the foreign policy change from time to
4 time. This answer deals with this matter emphatic-
5 ally.

6 I think question 11 and the answer is
7 probably the most significant statement in this whole
8 series of questions and answers and, certainly, is
9 relevant and material.

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2 an ambassador to confer closely with the liaison and
3 to show the information which he gets from his country
4 in order to show good faith in the transaction. The
5 last part of No. 12 shows that it may be hypotheti-
6 cal, but it certainly indicates that it is the
7 foreign minister whose policy is being carried out
8 and not the ambassador in carrying on foreign rela-
9 tions with third parties.

10 On No. 13, prosecution suggests this is a
11 construction of international law. I deem it a
12 confirmation of international law.

13 On No. 14 --

14 THE PRESIDENT: We do not want the witness'
15 imprimatur.

16 MR. CUNNINGHAM: I did not understand.

17 THE PRESIDENT: We do not want the imprima-
18 tur of any witness.

19 MR. CUNNINGHAM: Now, on page 4, the first
20 question, the prosecution says it is repetitive. I
21 cannot see that that question was specifically
22 answered before, and that is the test of it being
23 repetitive. On the last part of the question, as
24 to probative value, I think that has to be tested
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STAHLER

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1 received and not from one isolated question.

2 On No. 3, the defendant is charged with
3 some responsibility for the policy of the Japanese
4 Government. I cannot say that that has been answer-
5 ed before.

6 On No. 5, if the Tribunal says that that
7 question has been satisfactorily answered before,
8 then, perhaps, it is repetitive, but I cannot be-
9 lieve that any witness or any other document has
10 answered that question before.

11 On page 5, the last part that is objected
12 to is the statement of the witness which, I submit,
13 is admissible; and, since the Tribunal has ruled it
14 out on the other affidavit, perhaps we may be bound
15 by that ruling.

16 On page 6, on the question, the charge of
17 the prosecution is stated specifically; the answer
18 to that charge is stated specifically; and I cannot
19 believe that it is a repetition of anything that has
20 been said in the affidavit or elsewhere.

21 Page 7, question 8, the witness says he
22 does not know, meaning generally, but he does know
23 specifically an instance. I cannot see how he
24 should be excluded from stating his specific infor-
25 mation even though he is reluctant to take a general

STAMMER

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1 stand.

2 On page 8, question 14, these defendants
3 are charged with a conspiracy as being the govern-
4 ment of Japan. This question and answer specific-
5 ally refutes that allegation.

6 Page 9, question 22, I admit Ambassador Ott
7 would be the best witness on that question. He is
8 not available, and this is the best secondary evi-
9 dence I can give on that question.

10 I do not have a note here on my memorandum
11 as to what the specific objection to No. 21 was.
12 Therefore, I will have to pass it.

13 THE PRESIDENT: Obviously, on the ground
14 that it involves an opinion.

15 MR. CUNNINGHAM: I believe the witness'
16 opinion on that question is relevant and material
17 and should be admitted.

18 26 is said to be repetitive. If the Court
19 is satisfied it has heard enough about that, then
20 we will consider it cumulative. But I do not think
21 this witness has said that before, which is the test
22 of being repetitive.

23 On 27, "Is it likely that such a conversa-
24 tion took place?" -- Ribbentrop said it didn't take
25 place. I wanted this witness to state whether or

1 not it did.

2 On 28, I was not asking for the personal
3 opinion but the official opinion of the witness
4 which, I think, would be relevant and material.

5 In order to make question 31 clear, I would
6 like to insert "in 1941" after "Germany."

7 BY MR. CUNNINGHAM (Continued)

8 Q Now I would like to have the witness state
9 whether or not that is his signature on the back of
10 the original document and whether or not the con-
11 tents thereof are true.

12 Will you look at defense document 1714 and
13 state whether or not that is your signature placed
14 thereon and whether or not the contents of the document
15 are true.

16 A Yes, that is my signature and the contents
17 of the document are true.

18 MR. CUNNINGHAM: I now offer in evidence
19 defense document 1714, subject to the ruling of the
20 Tribunal on the objections and the argument on the
21 objections.

22 THE PRESIDENT: By a majority the objections
23 are upheld and the document admitted subject to the
24 objections. The admission is on the usual terms. You
25 may read only so much of the document as has not been

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objected to.

1 CLERK OF THE COURT: Defense document 1714
2 will receive exhibit No. 2744-A.
3

4 (Whereupon, the document above
5 referred to was marked defense exhibit No.
6 2744-A and received in evidence.)

7 THE PRESIDENT: The Judges wish me to tell
8 you, Mr. Cunningham--

9 MR. CUNNINGHAM: Your Honors, in order to
10 give continuity to the testimony of this witness I
11 suggest that we start at page 6 and go to the end and
12 then start at page 1 to the bottom of page 5.

13 THE PRESIDENT: I will assume you did not
14 attempt deliberately to interrupt me, Mr. Cunningham.
15 It is a very favorable assumption.

16 The Judges have asked me to tell you that
17 they insist on the observance of the rule as regards
18 the service of Judges' copies and other copies. You
19 may proceed, however, to read so much of this document
20 as has not been successfully objected to.

21 MR. CUNNINGHAM: Starting on page 6, top of
22 the page, reading from exhibit 2744-A:

23 "QUESTIONS AND ANSWERS

24 for

25 "AMBASSADOR STAHRER

STAHMER

DIRECT

1 "Collaboration - Japan, Germany and Italy
2 based upon opening statement of the prosecution on
3 this phase.

4 "1. To what extent did any Japanese statesmen,
5 other than MATSUOKA, participate in the negotiations
6 with you and Ambassador Ott prior to the conclusion
7 of the Tri-Partite Pact in September 1940?

8 "A. Only MATSUOKA participated, no other Japanese
9 statesman.

10 "2. During your negotiations with MATSUOKA did
11 he at any time interrupt conferences or conversations
12 to confer and consult with other Japanese statesmen
13 concerning the content, wording or intent of the Tri-
14 Partite Pact?

15 "A. No, during our negotiations MATSUOKA did not
16 even telephone with other people."

17 Going to question 4:

18 "4. It is stated that the accused OSHIMA and
19 SHIRATORI were sent to Rome for the purpose of inducing
20 Mussolini to enter in to the proposed Tri-Partite Pact.
21 Is this statement true? If not, explain to what extent
22 Ribbentrop and Hitler had previously negotiated and
23 conferred with Mussolini concerning this matter.

24 "A. It is not true, according to my knowledge,
25 that OSHIMA and SHIRATORI were sent to Rome to induce

STAHER

DIRECT

1 Mussolini to enter in the proposed Tri-Partite Pact.
2 The German Government could and would never use
3 Foreign ambassadors for such a purpose. Besides,
4 as I know definitely, Hitler and Ribbentrop had
5 already talked with Mussolini about the idea of a
6 Tri-Partite Pact during the Munich Conference in
7 September 1938 where Mussolini agreed principally.

8 "5. Were you advised as to the mission of the
9 ITO Commission which was sent to Berlin and Rome
10 relating to the abortive Tri-Partite agreement?

11 "A. No."

12 Page 7, question 6:

13 "6. In Count Ciano's Diary it is related that
14 SHIRATORI and OSHIMA refused to follow the instruc-
15 tions delivered by the ITO Commission. What has been
16 your experience concerning the accuracy of the items
17 set out in the Ciano diary?

18 "A. I have only read an abridged version of
19 Ciano's diary, but I do not take it as a historical
20 document. He asserts, for instance, that he was
21 against the Italians attacking Greece, but at that
22 time I heard from the Italian Embassy that Ciano
23 assisted this plan very much and was proud of it; only
24 after the Italian defeat in Albania he changed his
25 opinion.

1 "7. It is charged that the ambassadors asserted
2 that they would resign in the event the pact of
3 alliance was not concluded without reservation. Were
4 you aware of any such condition?

5 "A. I did not hear of this assertion, if it is
6 true, the Japanese Government must know it. I think
7 I would have known of it, surely, if it were true.
8 The only mention I have ever heard of such a thing
9 was from the one source."

10 Question 9:

11 "9. It is charged that negotiations for Japanese-
12 German alliance were renewed by KURUSU on the 19 June
13 1940. Please explain this statement in the light of
14 the actual circumstances.

15 "A. KURUSU only told the German Government that
16 the new government in Tokyo wanted a closer contact;
17 he did not begin negotiations otherwise it would not
18 have been necessary to send me to Tokyo, because the
19 situation was too obscure to be analyzed from Berlin.
20 As far as I know, he was during the negotiations in
21 Tokyo only very scantily informed by his own government.

22 "10. It is charged that on 8 July 1940 Ambassador
23 SATO and KURUSU in conference with you and Ribbentrop
24 conferred concerning the relations between Japan and
25 Germany. Please explain the nature and extent of this

STAHLER

DIRECT

1 discussion.

2 "A. That was no conference, but only a courtesy
3 call with a normal conversation, where I got the im-
4 pression that both sides wanted to avoid any remark
5 concerning unsolved political questions. I remember
6 that the Japanese Minister KAWAI who traveled at
7 that time in Europe was present.

8 "11. To what extent the French and Dutch East
9 Asia colonies came in for discussion during this
10 conversation?

11 "A. I have no recollections.

12 "12. To what extent had the Japanese statesmen
13 manifested their fears concerning the interest of
14 Germany in the Pacific Isles?

15 "A. Same as question number 11.

16 "13. To what extent did the appointment of
17 MATSUOKA affect the Japanese Foreign policy towards
18 Germany?

19 "A. From the new cabinet with KONOYE as Prime
20 Minister and MATSUOKA as Foreign Minister we got the
21 impression that this cabinet was interested to come
22 to a closer contact with Germany. When I arrived in
23 Japan I found that the government had already made
24 preparations for a pact with Germany and Italy."

25
Eliminating 14, going to 15:

1 "15. At the time when you arrived in Tokyo for
2 the negotiations of the Tri-Partite Pact did you
3 consider that Japan and the United States would become
4 engaged in war in the Pacific?

5 "A. No, I wanted to prevent the entrance of the
6 United States into the war.

7 "16. The prosecution has stated that the 20 million
8 of German-descent Americans were considered to hold
9 an influential position in the United States. Would
10 you please state what you told MATSUOKA concerning this?

11 "A. When MATSUOKA asked me about the influence of
12 the German-descent Americans, I told him that I believed
13 they were better American citizens than many other
14 Americans, and informed him of my experiences in that
15 line in Chicago.

16 "17. Did you discuss the terms of the Tri-Partite
17 Pact with Prince KONOYE or any other cabinet member
18 before or after its completion in Tokyo?

19 "A. No, neither with Prince KONOYE nor any other
20 cabinet member whom I saw. Only after the signature,
21 during official lunches or dinners was the matter com-
22 mented upon.

23 "18. Please explain the circumstances which brought
24 about the signing of the Pact in Berlin rather than in
25 Tokyo.

1 "A. I do not remember; the German Embassy in
2 Tokyo got a cable some days before the negotiations
3 were finished that Germany and Italy wanted to have
4 the pact signed in Berlin.

5 "19. Please explain MATSUOKA's idea concerning
6 this matter.

7 "A. At first he seemed a little reluctant, but
8 very soon he agreed; I believe that, as a sort of
9 compensation, Ribbentrop invited him on the evening
10 of the 27 September to come to Berlin."

11 I understand 21 is objected to.

12 THE PRESIDENT: 22 also.

13 MR. CUNNINGHAM: 22 also; going to 23:

14 "23. Upon the arrival of Foreign Minister
15 MATSUOKA in Germany in 1941 did he advise you of
16 the principle international question which he desired
17 to discuss with Ribbentrop?

18 "A. No.

19 "24. Did you at any time learn of the purpose
20 of his mission?

21 "A. I only heard shortly after he had left Berlin
22 that he wanted to make a non-aggression pact with the
23 Soviet Union.

24 "25. As far as you know was Ambassador OSHIMA
25 advised beforehand or during the visit of the object

STAHER

DIRECT

1 "A. I do not remember; the German Embassy in
2 Tokyo got a cable some days before the negotiations
3 were finished that Germany and Italy wanted to have
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20 of his mission?

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22 that he wanted to make a non-aggression pact with the
23 Soviet Union.

24 "25. As far as you know was Ambassador OSHIMA
25 advised beforehand or during the visit of the object

STAHMER

DIRECT

of his tour?

1 "A. I do not know, because OSHIMA did not tell me."

2 Going to the top of page 10:

3 "29. It is stated (p30) that 'On the 24 May 1941
4 a report was made by German Military Attache in Tokyo
5 to German Foreign Intelligence Office that Japan ac-
6 knowledged her treaty obligations in the event United
7 States entered the war.' Is this statement based on
8 facts?

9 "A. I do not know. I never heard of it.

10 "30. It is charged that 'When the Tri-Partite
11 Pact was concluded 27 September 1940, MATSUOKA in
12 reply to a question stated that an agreement would be
13 negotiated between the three powers for a no separate
14 peace pact in the event of hostilities.' Are you aware
15 of any such statement being uttered at that time?

16 "A. I do not remember to have talked with MATSUOKA
17 about a 'no separate peace clause.'

18 "31. Up until the time you left Germany in 1941
19 were the officials of the government informed of the
20 state of negotiations between Japan and the United
21 States? Please explain this situation.

22 "A. When I was still in Germany in 1941, the
23 German officials concerned were very nervous, because
24 they never got a clear answer of the state of negotiations
25

STAHMER

DIRECT

1 between Japan and the United States, during early
2 1941 until October when I left. We only heard in-
3 directly and thru unreliable information or rumors.

4 "32. It is stated that on the 18 January 1942
5 the armed forces of Japan, Germany and Italy concluded
6 military agreement 'In the spirit of the Tri-Partite
7 Pact 27 September 1940,' and provided for operational
8 coordination among them. Was any such situation con-
9 templated at the completion of the Tri-Partite Pact?

10 "A. At the time of the signature of the Tri-
11 Partite Pact no such action or situation was contem-
12 plated."

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1 Now, going to page 1, I am going to require
2 a little help on this because my notes are
3 not as adequate as they might be. (Reading):

4 "1. At any time during your conversations,
5 negotiations conferences with Ambassador OSHIMA did
6 he at any time commit himself as favorable to Japanese
7 commencing or participation in any war?

8 "Answer: No, he did not commit himself in
9 that way."

10 No. 7 (reading):

11 "7. Were there any collaboration between
12 Germany and Japan as far as you know that was not
13 provided for by treaty and regulated by some agree-
14 ment entered into thru the established diplomatic
15 channels?

16 "Answer: There was no collaboration between
17 Germany and Japan, as far as I know, that was not
18 provided for by treaty and went not through the
19 established channels.

20 "8. Were all of OSHIMA's dealings with
21 you and with Ribbentrop usual procedure adopted by
22 other diplomats in their relations with Germany?

23 "Answer: OSHIMA's dealings with me and
24 with Ribbentrop were not different at all from the
25 dealings of other ambassadors with whom I had to work.

1 "9. Did OSHIMA ever interest himself in
2 matters outside of his diplomatic tasks and duties
3 which were contrary to the best interest of either
4 Germany or Japan and those required of his office?

5 "Answer: No, not so far as I know."

6 Now, next to the last part of question 11:

7 "Q Were new contacts always necessary when
8 a change in Cabinet took place?

9 "Answer: Yes, in Tokyo the embassy always
10 had to try to keep up contact with the changing
11 ministers."

12 Then we go to --

13 THE PRESIDENT: The last two questions on
14 page 4.

15 MR. CUNNINGHAM (reading):

16 "Q Was there any definite continuity in
17 the foreign policy of Japan towards Germany over the
18 period of years of your association with this problem?

19 "A Though the Germany foreign policy
20 towards Japan was unchanged, the Japanese policy as
21 far as Germany was concerned changed several times;
22 the ideas of the Government KONOYE - HIROTA (summer
23 1938), HIRANUMA - ARITA (January 1939), and KONOYE -
24 MATSUOKA (July 1940) in that line was extremely
25 different.

STRAIEMER

DIRECT

1 "Q Did you ever have any conversations or
2 negotiations with Ambassador OSHIMA which would in-
3 dicate to you that he bore any closer relationship
4 to one of the nine foreign ministers of Japan than
5 to the other eight, who were in charge of foreign
6 affairs during his tour of duty as Ambassador?

7 "A No, I have never heard him express
8 greater friendship towards any foreign minister
9 particularly; having been absent such a long time
10 from Japan, probably he did not even know them
11 personally.

12 "Q It is charged that the object of the --
13 THE PRESIDENT: It is charged as being
14 repetitive.

15 MR. CUNNINGHAM: I guess that finishes --
16 signature, Heinrich Stahmer.

17 Now, your Honor, that concludes the reading
18 of these two documents. Several of the defense counsel
19 say that they have questions they would like to pro-
20 pound to this witness on direct examination concern-
21 ing individual defendants.

22 THE PRESIDENT: Mr. Logan.

23 MR. LOGAN: If the Tribunal please, I desire
24 to ask a few questions on behalf of the accused,
25 Marquis KIDO, pursuant to paragraph 1 of the rules

STAHLER

DIRECT

24,450

1 of this court on or about March 11, 1947.

2 DIRECT EXAMINATION (Continued)

3 BY MR. LOGAN:

4 Q Mr. Stahmer, did you ever meet and talk with
5 Marquis KIDO at any time?

6 A No, I do not remember having ever met him
7 and talked with him.

8 Q In your official capacity as a representa-
9 tive of the German Government from 1938 on, was it
10 part of your duties to ascertain the views of persons
11 associated with the Japanese Government with regard
12 to political, international, and military matters, and
13 more especially with regard to German-Japanese relation-
14 ships?

15 A Since I became Ambassador here in January 1943
16 it was a part of my duty to try to find out especially
17 the feeling of the leading statesmen and responsible
18 men toward Germany.

19 Q Did you make such an investigation with
20 respect to Marquis KIDO's views?

21 A Yes, I asked, too, about Marquis KIDO at
22 that time.

23 Q What was the information you received,
24 stating from whom you received it and when?

25 THE PRESIDENT: Mr. Tavenner.

1 of this court on or about March 11, 1947.

2 DIRECT EXAMINATION (Continued)

3 BY MR. LOGAN:

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22 that time.

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24 stating from whom you received it and when?

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STAHMER

DIRECT

24,450

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STAHMER

DIRECT

24,450

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22 that time.

23 Q What was the information you received,
24 stating from whom you received it and when?

25 THE PRESIDENT: Mr. Tavenner.

STAHMER

DIRECT

1 MR. TAVENNER: Objection has been made
2 if the Tribunal please, to the investigations made by
3 the witness on the ground that it is hearsay testimony.

4 THE PRESIDENT: That goes to weight only in
5 this court. You had better find a better ground.

6 MR. TAVENNER: I do not know of any better
7 ground.

8 THE PRESIDENT: The objection is overruled.

9 MR. LOGAN: You may answer, Mr. Stahmer.

10 A I asked about Marquis KIDO, too, and heard from
11 several of my officials that he was always regarded
12 very much pro-Anglo-Saxon and never had proved any
13 especially friendly feeling toward Germany.

14 THE PRESIDENT: Mr. Tavenner.

15 MR. TAVENNER: If the Tribunal please, I
16 would like to inquire whether the witness has a
17 memorandum in his hand, to which he is referring.

18 THE WITNESS: No.

19 THE PRESIDENT: He says he has not.

20 MR. TAVENNER: Yes. I would like to object
21 to the answer and move that it be struck on the ground
22 that it is an opinion of his subordinates.

23 THE PRESIDENT: Mr. Logan.

24 MR. LOGAN: If the Tribunal please, we have
25 a situation here where these accused, including

STAHLER

DIRECT

1 Marquis KIDO, is accused to collaboration with
2 the German Government and officials of the German
3 Government. Certainly the opinion of the Ambassador
4 in his investigations would warrant the introduction
5 of evidence at this time from this witness, who was
6 the Ambassador here, as to what the reputation of
7 Marquis KIDO was with the German Government. It
8 is fundamental and only natural that the Ambassador
9 should try to find out just what the situation and
10 views of the men are with whom he intends to deal,
11 and while this is not strictly reputation evidence,
12 it is of that nature, which is fundamentally admitted
13 in any court.

14 THE PRESIDENT: We will hear you further
15 after lunch, Mr. Logan.

16 We will adjourn until half-past one.

17 (Whereupon, at 1200, a recess
18 was taken.)
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STAHLER

AFTERNOON SESSION

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The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

HEINRICH STAHLER, called as a witness on behalf of the defense, resumed the stand and testified as follows:

THE PRESIDENT: Mr. Logan.

MR. LOGAN: If the Tribunal please, the only other observation I have to make is that there was no objection that the answer was not responsive, and in my submission it was responsive to a question to which an objection had unsuccessfully been taken by the prosecution.

THE PRESIDENT: The evidence is really in the nature of opinion entertained by officials about your client. They can tell us through the witness what KIDO said, from which we might draw our conclusions. The evidence is really in the nature of a certificate of character, which is not really relevant to any issue. It might go to mitigation, assuming there should be punishment to be considered later, but it is for the Court to say whether they are prepared to receive this

STAHMER

AFTERNOON SESSION

1
2 The Tribunal met, pursuant to recess, at
3 1330.

4 MARSHAL OF THE COURT: The International
5 Military Tribunal for the Far East is now resumed.

6
7 H E I N R I C H S T A H M E R, called as a witness
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24 punishment to be considered later, but it is for the
25 Court to say whether they are prepared to receive this

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STAHMER

1 evidence at this stage. It is a matter of discretion.
2 It does seem to be anticipating. That is the diffi-
3 culty.

4 MR. LOGAN: May I say this in answer to the
5 Tribunal's statement? Of course we all know a person's
6 character is what he is himself. His reputation is
7 what other people believe him to be. In the ordinary
8 lawsuit, of course, where character and reputation
9 evidence is at issue, the test is whether a person's
10 reputation -- what his reputation is for veracity and
11 truth; but that is a little different from the case
12 here. Here we have a situation of an ambassador of a
13 government assuming his functions as such, and in the
14 nature of things he must find out the reputation of the
15 persons of the Japanese Government with whom he has to
16 deal.

17 I use the word "reputation" in the sense
18 of an expression of the views of that particular per-
19 son with respect to any relationships between the two
20 governments, that is, whether he is pro-German, pro-
21 American, pro-British, or what his situation is,
22 and of necessity the ambassador must rely on the state-
23 ments of the others in his department. In so far as
24 the answer he gave relates to the fact that it was
25 based on opinions of others under him, that is no

STAHMER

1 reason for excluding his answer; it may only go to the
2 weight of the answer.

3 I might also add that evidence of this kind,
4 I understand, is admissible at any time in a trial.

5 THE PRESIDENT: Mr. Tavenner.

6 MR. TAVENNER: If it please the Tribunal,
7 the situation here must not be confused with that of
8 general reputation evidence. What the defense is seek-
9 ing to do with this witness is to have him testify
10 regarding a third person's opinion regarding the
11 opinion of still another person. It is an effort to
12 establish a specific quality of mind by stating what
13 some other person thought about it. Certainly no
14 court has gone as far as that; and if this Tribunal
15 is to accept that as a gauge of the admissibility of
16 evidence, a witness could be placed on the stand to
17 swear the issues as to every accused in the dock.
18 And again, the situation that counsel has described
19 where a witness must act upon what he knows to be the
20 opinion of others is not applicable here, because we
21 are not concerned with the thought or the action of
22 this witness.

23 For these reasons we respectfully request
24 that the objection be sustained.

25 THE PRESIDENT: By a majority the Tribunal

STAHMER

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22 this witness.

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24 that the objection be sustained.

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STAHMER

upholds the objection and disallows the question.

1 MR. LOGAN: Disallows the question or the
2 answer?

3 THE PRESIDENT: It follows we must disallow
4 both.

5 MR. TAVENNER: If the Tribunal please, in
6 closing my argument I failed to state what I did state
7 in the beginning, that there was also a motion to strike
8 the answer of the witness.

9 MR. LOGAN: His objection to the question
10 was disallowed. His motion was directed to the
11 answer, your Honor.

12 THE PRESIDENT: You can put that question
13 again if you like, Mr. Logan.

14 MR. LOGAN: That is what I intend to do,
15 your Honor.

16 Will the Court Reporter read it?

17 (Whereupon, the official Court Reporter
18 read as follows:)

19 "Q What was the information you received,
20 stating from whom you received it and when?"

21 MR. TAVENNER: If it is intended to ask this
22 question again of the witness, I want to make the same
23 objection.

24 THE PRESIDENT: He can tell us what there
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STAHMER

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23 question again of the witness, I want to make the same
24 objection.

25 THE PRESIDENT: He can tell us what there

STAHMER

DIRECT

1 was reported to him to have been said by KIDO, but
2 we will exclude any opinion.

3 THE WITNESS: Could you please repeat the
4 question, so that I could get it?

5 BY THE PRESIDENT:

6 Q Did your subordinates report to you anything
7 said by KIDO? If so, what was it?

8 A No, I did not report anything said by KIDO.

9 BY MR. LOGAN:

10 Q Did they report anything to you?

11 MR. TAVENNER: I object, your Honor. That is
12 in the face of the ruling of the Tribunal.

13 THE PRESIDENT: We will allow hearsay to that
14 extent. We are excluding opinions only, not anything
15 that was said by KIDO to him or his subordinates. He
16 can tell us what was told to him by his subordinates,
17 if anything was said. All we are excluding are the
18 opinions of his subordinates as to KIDO's character or
19 reputation.

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1 MR. TAVENNER: But I understood, if the
2 Tribunal please, that the witness said that no
3 report was made to him of any statement to his
4 subordinates by KIDO.

5 THE PRESIDENT: We have his answer, but
6 I doubt whether it was as clear as that.

7 What did the witness say, please, court
8 reporter.

9 (Whereupon, the answer was read
10 by the official court reporter as follows:
11 "No, I did not report of anything said by
12 KIDO.")

13 THE PRESIDENT: That certainly is not an
14 answer to what I asked him.

15 BY MR. LOGAN (Continued):

16 Q Now, will you answer the question I just
17 had asked you, Mr. Stahmer: Did they report anything
18 to you about KIDO?

19 THE PRESIDENT: Did they tell him anything
20 about KIDO? If so, what was it?

21 A No, they did not tell me any definite thing
22 what KIDO said. They only told me how he was
23 regarded.

24 Q Was that based on actual contacts between
25 the subordinates of yours and KIDO?

STAHMER

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1 MR. TAVENNER: If the Tribunal please,
2 that question assumes that the former question
3 was admitted which the Tribunal ruled out, and
4 I therefore object to it.

5 MR. LOGAN: I think that question directly
6 follows after the last answer he gave.

7 THE PRESIDENT: Objection upheld.

8 Q Did you have any negotiations at all with
9 KIDO from 1938 on?

10 A No, I had never.

11 Q Do you know of anybody in the German
12 Government that ever had any negotiations with
13 KIDO?

14 A No, I never heard of any negotiations from
15 a member of the German Government with KIDO.

16 Q Do you know of any reasons why they would
17 never negotiate with KIDO?

18 MR. TAVENNER: If your Honor please, I
19 object to that question as calling for opinion,
20 surmise, speculation on the part of this witness.

21 THE PRESIDENT: Objection upheld.

22 Q Do you know of any acts or statements of
23 KIDO which would prevent the German Government from
24 negotiating with him?

25 MR. TAVENNER: Objection is made in that the

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1 witness has said he had not met the man, he had not
2 had any conference with him, and for the additional
3 reason that the attitude of Germany or the facts
4 necessary for action are not admissible to any
5 issue in this case.

6 THE PRESIDENT: We can see what you are
7 trying to get at, Mr. Logan, but the witness has
8 professed that he does not know enough to be able
9 to answer you. That is the sum total of his evidence
10 to date.

11 MR. LOGAN: I think he knows, your Honor.
12 I am trying to get it.

13 And, with respect to the objection which
14 was just made by my good friend, Mr. Tavenner, I
15 must say it comes as rather a surprise that he is
16 objecting to the opinions and the actions of the
17 German Government in a case where there is conspiracy
18 alleged. We are alleged to have conspired with that
19 government and they are alleged to have done certain
20 acts.

21 THE PRESIDENT: They are charged with con-
22 spiring with others, which might well include
23 individual Germans, including say, Ribbentrop and
24 Hitler.

25 MR. LOGAN: It may also include Mr. Stahmer

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1 as one of those "divers" persons." We do not know,
2 and the prosecution has never disclosed it to date,
3 who they are.

4 THE PRESIDENT: We have placed no limit
5 on what he can say as to what happened between him
6 and KIDO. It must be something that KIDO said or did,
7 and not some opinion expressed of him by others.
8 BY MR. LOGAN (Continued):

9 Q Did you have any reason for not dealing
10 with KIDO?

11 MR. TAVENNER: I object to it, if the
12 Tribunal please.

13 THE PRESIDENT: Objection overruled, clearly.
14 It all depends on what the answer is, of course. We
15 may have to strike that.

16 Q Answer, please.

17 A Will you please tell me the question again?

18 (Whereupon, the question was
19 read by the official court reporter
20 as follows: "Did you have any reason for not
21 dealing with KIDO?")

22 A (Continuing) I did not deal with KIDO,
23 because I did not have the slightest contact with
24 him, contrary to other statesmen and ministers here.
25 Therefore, I could not approach him.

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1 Q Turning now to another subject, Mr. Stahmer.
2 Would you, as a representative of the German
3 Government and the German Government know of the
4 secret military negotiations which were being
5 conducted between Great Britain and the United
6 States in the latter part of 1938 and 1939?

7 MR. TAVENNER: If the Tribunal please,
8 objection is made on the ground that the question
9 assumes that there was such a type of negotiation.

10 MR. LOGAN: Subject to further proof --

11 THE PRESIDENT: The question should be
12 directed to specific matters, Mr. Logan.

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1 Q Mr. Stahmer, do you know of meetings which were
2 held in Washington and London between military officials
3 of Great Britain and the United States -- particularly
4 navy officials -- in the latter part of 1938 and early
5 1939?

6 A Yes, I knew of that. I knew that at least two
7 secret negotiations took place, if I remember rightly,
8 when Singapore was taken out for a mutual defense base.

9 Q Did you and the German Government know that
10 at the time they were being held?

11 A Yes, the German Government knew that.

12 Q Did you and the German Government also know
13 of further secret military negotiations, principally
14 between admiralty officials, that were held in the
15 early part of 1941 between Britain and the United States?

16 A We heard about a meeting in the United States
17 and, if I remember rightly, it was in Washington.

18 Q Did you hear about that --

19 THE PRESIDENT: Mr. Tavenner.

20 MR. TAVENNER: Objection is made to this line
21 of testimony in that negotiations between the two
22 powers, if they occurred as of the dates mentioned,
23 could not be a matter in defense of the accused in this
24 case. We are not concerned with the Nuernberg trial
25 or the issues involved there. And on the additional

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1 ground that the witness' testimony is in the nature of
2 merely rumor.

3 THE PRESIDENT: We are not concerned with the
4 Nuernberg trial but we are concerned with some of the
5 subject matter which was passed upon there. If these
6 negotiations suggested took place, we may have to review
7 them here, but the information would be of no value
8 unless we know the source, certainly.

9 MR. LOGAN: Need I answer?

10 THE PRESIDENT: The objection is overruled.

11 Q Did you find out about these negotiations --

12 THE PRESIDENT: Mr. Logan, you are called upon
13 to show why KIDO is particularly affected by this. If
14 they do concern him with others, but no examination has
15 taken place about that, I do not see that you should
16 be prevented from asking questions. But do show how
17 you are particularly concerned, if you can.

18 MR. LOGAN: Marquis KIDC is included in fifty-
19 four out of fifty-five counts of the Indictment. The
20 only count with which he is not connected is, I believe,
21 a certain phase of the China Incident. What took
22 place in 1938, '39, '40, and '41 is very material to
23 his case. I might say that it involves an affirmative
24 defense of some of these accused, that is, the ABC
25 encirclement, economically and militarily. Without

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1 saying much more about it, I will be very frank that
2 what I want to bring out from this witness is that the
3 German Government at that time knew about these secret
4 agreements that were being made, which will be shown
5 later in the case, and also to show that they were
6 communicated to and knowledge was had of them by officials
7 of the Japanese Government. So that perhaps knowledge
8 of what was going on and the effect of the economic
9 sanctions and embargoes and the military encirclement,
10 as your Honor has once said, if Japan was driven to the
11 wall that would be in mitigation of what the leaders
12 did at that time. In other words, this is part of that
13 picture which we intend to show.

14 THE PRESIDENT: These general matters affecting
15 several of the accused should, of course, have been
16 brought out by Mr. Cunningham if he ascertained the
17 witness could depose to them. But if the witness can
18 depose to them are you to be precluded from bringing
19 them out if Mr. Cunningham failed? I am quite sure on
20 further consideration we would find you are not pre-
21 cluded. These rules that we are looking at now were
22 agreed upon by the parties, but you could never have
23 thought, nor could we, that they would cover every
24 possible contingency and here is one that they do not
25 cover.

1 MR. LOGAN: Well, as I announced, if your
2 Honor please, I am only asking these questions on behalf
3 of my client, not on behalf of anybody else.

4 MR. TAVENNER: If the Tribunal please, it is
5 almost inconceivable that counsel have not discussed
6 a matter of the importance that they attribute to this --
7 to these points -- or that the witness had not been
8 examined in regard to it. If Mr. Cunningham refused
9 to go into a general examination of this subject,
10 then the situation your Honor pictured would certainly
11 follow.

12 THE PRESIDENT: There is an additional fact.
13 This witness claims to know there were such negoti-
14 ations but he hasn't told us the source of his informa-
15 tion.

16 MR. TAVENNER: But we don't think that on the
17 basis of the present explanation that there is a
18 justification for avoiding the rule of the Tribunal
19 of reducing the statement to affidavit form.

20 THE PRESIDENT: There is a simple way out.
21 We can give full effect to the rules according to
22 their very letter and then let Mr. Logan recall this
23 witness on behalf of KIDO.

24 MR. LOGAN: I only have two more questions to
25 ask, your Honor.

STAHLER

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1 BY MR. LOGAN (Continued):

2 Q Did you know about those negotiations at
3 the time they were occurring in 1940 and '41 -- 1941
4 rather?

5 THE PRESIDENT: He said he heard there were
6 negotiations.

7 Q Where did you get that information? From
8 where did you get that information?

9 A I heard one information from Ribbentrop and
10 some other news I have had in the so-called ministerial
11 office of the Foreign Ministry where all the incoming
12 cables from the different embassies and legations came
13 in.

14 THE PRESIDENT: Major Blakeney.

15 MR. BLAKENEY: On behalf of Mr. TOGO.
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DIRECT EXAMINATION (Continued)

1 BY MR. BLAKENEY:

2 Q Mr. Witness, on page 3 of your affidavit,
3 section 3 thereof, you testified concerning the
4 negotiations in 1938 and 1939 between Germany and
5 Japan. With whom did Ribbentrop conduct those
6 negotiations?

7 A Ribbentrop conducted these negotiations
8 with OSHIMA.

9 Q General OSHIMA's position was then Military
10 Attache, was it not?

11 A He was at that time still Military Attache.

12 Q Who was the Japanese ambassador at that time?

13 A Ambassador TOGO.

14 Q Had Mr. TOGO anything to do with those
15 negotiations?

16 A No, not so far as I know.

17 Q When did those negotiations commence?

18 A I do not remember the exact date, but it was
19 in the summer of 1938.

20 Q And, do you remember when Ambassador TOGO
21 was transferred from Berlin to Moscow?

22 A I believe he was transferred in October, 1938.

23 Q Is it correct to say, as far as your infor-
24 mation goes, that from the beginning of those
25

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1 negotiations until his transfer Ambassador TOGO had
2 nothing to do with them?

3 MR. TAVENNER: Objection is made on the basis
4 that the question is grossly leading.

5 Q (Continued) Or not?

6 THE PRESIDENT: Well, you received your answer
7 from a Member of the Tribunal, Major Blakeney, who
8 told you it was grossly leading and impertinent.
9 The red light prevented me from saying anything.

10 MR. BLAKENEY: Well, I can see how the
11 question may have been leading but its impertinence I
12 am unable to recognize. I will try to put it in a
13 more unobjectionable form.

14 Q Mr. Witness, so far as your information goes,
15 what connection had Mr. TOGO, the then Ambassador to
16 Germany, with the negotiations conducted in the summer
17 of 1938, from the beginning thereof until his transfer
18 to the post of Ambassador at Moscow in October, 1938?

19 A As far as my information goes, Ambassador
20 TOGO has nothing to do with these negotiations from
21 the beginning until he left Berlin -- was transferred
22 to Moscow.

23 Q Did you ever personally talk with Ambassador
24 TOGO on this subject, that is, in 1938?

25 A No, I never talked with him personally about

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1 this subject.

2 Q How did you come to deal with Military
3 Attache OSHIMA on this question?

4 MR. TAVENNER: Objection is made, if the
5 Tribunal please, on the ground it is covered in the
6 general examination.

7 THE PRESIDENT: That is so.

8 Mr. Blakeney, before you go further, I am
9 asked to put this: How could German knowledge of
10 negotiations between England and the United States be
11 any defense or exculpation of the accused? Knowledge
12 of the accused might be. It may be that when that
13 was drafted Mr. Logan was examining the witness.

14 I could only suggest that you are charged
15 with conspiring with others, obviously including the
16 Germans, and anything that would tend to exculpate
17 them could be relied upon by you. If I understand
18 the charges rightly, the allegation of conspiracy is
19 not confined to the Pacific, but extending to Europe.
20 Neurnberg certainly thought the charges before them
21 embraced the Pacific.

22 MR. BLAKENEY: Shall Mr. Logan answer?

23 THE PRESIDENT: He can, if he wishes.

24 MR. LOGAN: In case there is any doubt, your
25 Honor, in the mind of the Judge who asked the question,

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1 it goes a little further than that, in that we are
2 endeavoring to show in the defendants' case that the
3 actions of the Western Powers, of which Japan and
4 others alleged in the conspiracy had knowledge at that
5 time, resulted in certain acts being taken by Japan.
6 In other words, what was done by the Western Powers,
7 knowledge of it came to the representatives of the
8 so-called Axis, brought about certain results, and
9 that is what we have been trying to show through this
10 witness, that Germany had knowledge of certain things
11 that had taken place, and we will show later that
12 certainly Japan had the same knowledge. In other
13 words, what the Western Powers were doing had a very
14 direct bearing on what Japan did.

15 THE PRESIDENT: Do you suggest that Japan
16 knew what Germany knew, an idea not even faintly
17 hinted at?

18 MR. LOGAN: I am trying to show, your Honor,
19 that Germany knew it and that Japan knew it, also that
20 these meetings were not so secret as what they were
21 thought to be at that time. And, they are a matter of
22 public knowledge at this time.

23 THE PRESIDENT: Well, that is a matter for
24 evidence.
25

THE PRESIDENT: (Continued)

1 BY MR. BLAKENEY (Continued):

2 Q Mr. Witness, do you know whether the negoti-
3 ations between Ribbentrop and OSHIMA were kept secret
4 from Ambassador TOGO?

5 A I do not know if these negotiations were kept
6 secret from Ambassador TOGO.

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1 Q Did you receive orders from Ribbentrop con-
2 cerning the question of whether the negotiations should
3 be made known to Ambassador TOGO?

4 A No, I did not get such an order. I had only
5 to deal with Mr. OSHIMA.

6 Q Do I understand by that that your orders were
7 to deal only with OSHIMA?

8 THE PRESIDENT: Mr. Tavenner.

9 MR. TAVENNER: Objection is made to the ques-
10 tion as being grossly leading. This witness is on
11 direct examination, not cross-examination.

12 THE PRESIDENT: The question does suggest the
13 answer, Major Blakeney, and is objectionable as being
14 leading.

15 MR. BLAKENEY: His answer was patently
16 ambiguous, and I was merely trying to resolve the
17 ambiguity.

18 THE PRESIDENT: That is his task.

19 MR. BLAKENEY: Reporter, read to the witness
20 the second preceding question.

21 (Whereupon, the question was read by
22 the official court reporter as follows:

23 "Did you receive orders from Ribbentrop
24 concerning the question of whether the nego-
25 tiations should be made known to Ambassador TOGO?")

STAHMER

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1 Q Did you hear that and understand it,
2 Mr. Witness?

3 A Yes, I understood it. I did not get -- I got
4 an order from Ribbentrop; he made me liaison man to
5 OSHIMA to deal with him about this, the beginning of
6 these negotiations.

7 Q Are you able to state from your experience in
8 diplomacy whether negotiations of this character are
9 usually conducted with ambassadors or with military
10 attaches?

11 A Normally these negotiations were made between
12 ambassadors and foreign ministers.

13 Q Are you able to state why in this instance
14 negotiations were conducted between the foreign minister
15 on the one hand, and on the other, the military attache,
16 rather than the ambassador?

17 A I do not know the reason. Probably because
18 Ribbentrop knew OSHIMA before and during the negotiations
19 of the Anti-Comintern Pact.

20 Q Do you know what was the condition of relations
21 between Ribbentrop and TOGO at this time?

22 A The conditions seemed to me always rather cool,
23 at any rate in this time of summer, 1938. But I do
24 not know why.

25 Q In your affidavit on page 6, section 6, you

1 refer to some discrepancy between Ott's telegrams and
2 KURUSU's information concerning the attitude of Japan.
3 When you came to Tokyo at that time to investigate the
4 situation, what estimate did you form of the accuracy
5 of Ott's telegrams to the Foreign Office?

6 THE PRESIDENT: Mr. Tavenner.

7 MR. TAVENNER: Objection is made on the ground
8 that this matter generally is covered in the general
9 examination, and also on the ground that it calls for
10 an opinion from this witness.

11 THE PRESIDENT: Major Blakeney.

12 MR. BLAKENEY: First, it is not covered in
13 the general examination, unless I am overlooking some-
14 thing, because the affidavit states that since only
15 a confused impression was gathered by the German Foreign
16 Office, they sent him out to learn the actual conditions.
17 I am now pursuing that subject beyond the point to which
18 he took us in the affidavit, to ask him what he found
19 as a result of the investigation so made.

20 As to whether the result of his investigation
21 was his opinion, we are not concerned, because if it
22 was opinion, it was opinion officially formed in the
23 course of his official duties, and presumably, as he
24 points out, relied upon by his government in its official
25 acts.

1 THE PRESIDENT: Well, how does it affect
2 your client, particularly?

3 MR. BLAKENEY: As the Tribunal will well
4 remember, in many dozens or scores or perhaps more
5 instances, the telegrams of Ott were put into evidence
6 against these defendants, including my client,
7 Mr. TOGO. One example specifically affecting him is
8 of recent memory and I therefore mention it; that is,
9 Ott's telegram purporting to report the contents of
10 a speech made to the Liet by Foreign Minister TOGO
11 in early 1942. Comparison with the actual speech
12 now in evidence will show the importance of knowing
13 the reliability of Ott's reports; and this witness
14 was sent out officially by his government to ascertain
15 that fact of the reliability of Ott's reports, as is
16 inferentially apparent from the statement in section 6
17 of his affidavit.

18 THE PRESIDENT: Mr. Tavenner.

19 MR. TAVENNER: If it please the Tribunal, I
20 submit that there is no section -- or no part of
21 section 6 that warrants such a conclusion. The
22 declaration that the witness was sent to check up
23 on Ott's telegrams is apparently intended to be read
24 into section (a), which says "To find out the actual
25 intention of the Japanese Government towards Germany."

STAHMER

DIRECT

1 The whole purpose in sending the witness to
2 Japan was to conclude this pact if it could be concluded,
3 according to the witness' testimony, and it is sub-
4 mitted the claim of the defense now that he was sent
5 there for another purpose certainly requires a very
6 strained construction.

7 MR. BLAKENEY: May I point out, in answer to
8 Mr. Tavenner's second argument, paragraph 6 of the
9 affidavit, the last sentence thereof, as follows:

10 "Incoming telegrams from Ambassador Ott of
11 the German Embassy in Tokyo and verbal information from
12 Ambassador KURUSU in Berlin created a completely con-
13 fused picture of the Japanese attitude from the view-
14 point of the German Government, which eventually could
15 not figure out what the Japanese Government had in
16 mind."

17 And in view of the confused picture, he was
18 ordered to go and investigate.

19 THE PRESIDENT: To shorten the matter, Major
20 Blakeney, I think we are all prepared to hear what he
21 found out about Ott and what he told Germany about Ott.

22 MR. BLAKENEY: Answer the question, please.

23 THE PRESIDENT: To that extent: What you found
24 out about Ott and what you told your government about
25 him.

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We will hear your answer after the recess.

We will recess for fifteen minutes.

(Whereupon, at 1445, a recess was taken until 1500, after which the proceedings were resumed as follows:)

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Blakeney.

BY MR. BLAKENEY (Continued:)

Q Mr. Witness, will you please answer the question asked by the President before the recess?

A I never had any order to investigate Ott or any other person. I had only to study the political situation here and, of course, I talked it over with Ott personally. Then he told me that his telegram -- there was a certain mistake, and he told me a lengthy story why, and so I did not make any report to Ribbentrop or any other man.

Q By report, you mean on the question of accuracy of telegrams?

A Yes.

THE PRESIDENT: Mr. Tavenner.

MR. TAVENNER: It is too late now.

MR. BLAKENEY: I was trying to get the President's question fully answered, that he did not make

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1 a report, that's all.

2 Mr. PRESIDENT: Mr. Caudle.

3 DIRECT EXAMINATION (Continued:)

4 BY MR. CAUDLE:

5 Q Mr. Stahmer, will you please state where,
6 when and under what conditions you first met the
7 accused, SHIRATORI?

8 A I met Mr. SHIRATORI first in 1939 when he
9 was invited to Berlin during the birthday of Hitler.

10 Q Did you talk with him at that time, sir?

11 A I saw him twice during lunch and dinner,
12 and we talked together, but not politically.

13 Q When did you next see the accused?

14 A The next time I saw him was in February,
15 1940 during my short, first stay in Japan.

16 Q Was that when you were on your Red Cross
17 tour?

18 A Yes, that was during that time.

19 Q And I believe at that time you sent a wire
20 back --- I think it was signed "Ott-Stahmer," exhibit
21 511 --- wherein you stated that you found SHIRATORI,
22 OSHIMA, ISHII and others in the same friendly attitude,
23 is that correct, sir?

24 A Yes, that is correct.

25 Q Will you please explain the wire,-- the

STAHLER

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a report, that's all.

1 Mr. PRESIDENT: Mr. Caudle.

2 DIRECT EXAMINATION (Continued:)

3 BY MR. CAUDLE:

4 Q Mr. Stahmer, will you please state where,
5 when and under what conditions you first met the
6 accused, SHIRATORI?

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8 was invited to Berlin during the birthday of Hitler.

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11 and we talked together, but not politically.

12 Q When did you next see the accused?

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14 1940 during my short, first stay in Japan.

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16 tour?

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19 back --- I think it was signed "Ott-Stahmer," exhibit
20 511 --- wherein you stated that you found SHIRATORI,
21 OSHIMA, ISHII and others in the same friendly attitude,
22 is that correct, sir?

23 A Yes, that is correct.

24 Q Will you please explain the wire,-- the
25

STAHMER

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1 nature of that wire?

2 THE PRESIDENT: That doesn't call for that.
3 I am addressing you, Mr. Caudle.

4 MR. CAUDLE: Excuse me, sir.

5 THE PRESIDENT: Is the wire ambiguous or
6 equivocal?

7 MR. CAUDLE: Well, sir, I would just like to
8 know under what circumstances he saw him.

9 MR. PRESIDENT: You asked him to explain a
10 telegram. I don't know what you mean.

11 Q Will you explain under what circumstances
12 you saw the accused SHIRATORI at that time?

13 A I saw him together with some other Japanese
14 gentleman whose name I do not remember, and we talked
15 about general topics together with this other gentleman.

16 Q When did you next see the accused?

17 A I do not remember if I saw him on my way back
18 from the United States, but at any rate I saw him dur-
19 ing or after the conclusion of this Tri-Partite Pact,
20 because there were several invitations; many people
21 appeared.

22 Q Will you please state, if you know, what part
23 the accused took in the formulation or the conclusion
24 of the Tri-Partite Pact?

25 A I knew that he was an adviser of the Foreign

Minister, but I don't know what part he took in the negotiations; I did not talk with him.

Q Did he ever sit in on any of the discussions?

A No, he was not present. There were always only MATSUOKA and Ott present, and in the end I saw Mr. SAITO and Mr. MATSUMOTO; only for technical small details, not in the meeting.

Q Did you ever discuss the Tri-Partite Pact in any way whatsoever with the accused?

A I do not remember. It may be that we talked it over during these dinners and lunches after the signatures to the Pact.

Q Did you have any discussion with him prior to the conclusion of the Pact?

A No, I talked only with MATSUOKA.

Q Do you know how many times Mr. SHIRATORI met Mr. Ribbentrop?

A He could have met him only during the fiftieth birthday of Hitler, in April 1938 -- 1939.

Q Then you mean they met only once?

A Only during those two or three days -- I donnot know exactly how long he stayed -- in April 1939.

Q Then, under the circumstances, Mr. Ribbentrop could not have known Mr. SHIRATORI very well, is that correct?

STAHMER

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Q With respect to the strengthening of the
1 Anti-Comintern Pact, you state that most of the ne-
2 gotiations were made with Italy through Germany.
3 Will you please explain that, sir.

4 A During the negotiations in Munich, in
5 September, 1939, Ribbentrop and Hitler talked at first
6 about this idea with Mussolini, and Mussolini agreed
7 immediately, principally, and told them he must think
8 it over when a suitable time would become to go on
9 with these negotiations -- to begin with these ne-
10 gotiations from the side of Italy. As far as I
11 remember, he told that in beginning of January,
12 1940 -- not 1939.

13 I was wrong. This was in beginning of 1939.

14 Q Those negotiations were carried on strictly
15 between Germany and Italy through either Mussolini
16 or Ciano or Ribbentrop or Mr. Hitler, is that cor-
17 rect?
18

19 A That is correct. In October, 1938 Ribben-
20 trop again -- Ribbentrop went to Rome and talked again
21 with Mussoline and with Ciano; and later -- at that
22 time Italian Ambassador in Berlin, Attolico, was
23 informed, too, and worked together in these negotia-
24 tions.

25 MR. CAUDLE: Thank you.

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THE PRESIDENT: Major Furness.

MR. FURNESS: Direct examination on behalf of the defendant SHIGEMITSU.

DIRECT EXAMINATION (Continued)

BY MR. FURNESS:

Q Stahmer, in your conversations with Foreign Minister SHIGEMITSU, did you conduct them in English or in some other language?

A We talked together in English.

Q And were writings which you presented to him in English or in some other language?

A Mostly in English. Of course, official communications were made in German with an English translation.

Q Towards the end of August, 1938, did you have a conversation with Foreign Minister SHIGEMITSU?

A In 1938 --

Q I'm sorry; in 1944.

A Yes, in 1944 I had, in August, several conversations with him.

Q What was this conversation about?

A It was, I believe, in the second half or against the end of August, a conversation about the necessity of -- or possibility of coming to an understanding between Germany and Russia with the idea to

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1 make peace.

2 Q Did such discussion relate only to peace
3 between Germany and Soviet Russia or did it also
4 include that as a first step towards general peace?

5 A The idea was to try to come to peace be-
6 tween Germany and Russia and then to use this situa-
7 tion for a common peace between all nations con-
8 cerned.

9 Q Did you report this conversation to your
10 government?

11 A I reported this conversation to my govern-
12 ment.

13 Q Later, about the middle of September, did
14 you have another conversation with Foreign Minister
15 SHIGEMITSU?

16 A Yes, I had another conversation; and, after,
17 I got answer on my cable to Berlin.

18 MR. FURNESS: I ask that the witness be
19 shown the original of defense document 1770.

20 (Whereupon, a document was handed
21 to the witness.)

22 Q Do you recognize that document?

23 A Yes, I recognize the document.

24 Q Did you bring it with you to this confer-
25 ence about the middle of September?

1 A Yes, I had that document especially trans-
2 lated in English and brought it to Mr. SHIGEMITSU.

3 Q And you delivered it to him as an official
4 communication?

5 A Oh, I gave him my official communication
6 verbally, but I gave him this written paper so that
7 no misunderstanding could arise, as a sort of aide
8 memoire.

9 Q And that document is the document which you
10 now have in the box?

11 A Yes, that is this document.

12 MR. FURNESS: I offer in evidence defense
13 document 1770.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Defense document 1770
16 will receive exhibit No. 2745.

17 (Whereupon, the document above re-
18 ferred to was marked defense exhibit No.
19 2745 and received in evidence.)

20 MR. FURNESS: I will read defense exhibit
21 2745, beginning on page 2, paragraph numbered 3:

22 "Ambassador OSHIMA informed the Fuhrer about
23 the Japanese Government's suggestion concerning a
24 separate peace between Germany and the Soviet Union.
25 The Fuhrer explained the German point of view as

follows:

1 "a) We have no indications that the Soviet
2 Government is ready for an understanding with Germany.
3 We believe that Stalin will try to come to an under-
4 standing with Germany only then, when he is con-
5 vinced that he cannot successfully continue the war
6 or that, at least, his forces are not sufficient to
7 defeat Germany.

8 "b) If this should happen, a new political
9 situation will be created.

10 "c) The German Government fully appreciate
11 the Japanese Government's suggestion. However, on
12 account of the above-stated explanations, the German
13 Government would be obliged, if the Japanese Govern-
14 ment in this matter would refrain from all steps with
15 the Soviet Government.

16 "On the question of Ambassador OSHIMA, if
17 the German war aims vis a vis Soviet Russia have
18 changed, the Fuhrer replied, that Stalin did not ask
19 for peace negotiations when the German troops were
20 on the Don and that the same holds good for Germany
21 under the present circumstances."

22 Q At that time, did you have a discussion
23 with Foreign Minister SHIGEMITSU?
24

25 A Yes, we had a discussion.

1 Q Did it relate to this proposal of peace
2 between Soviet kussia and Germany?

3 A Yes.

4 Q Did you include that as the first step
5 towards general peace between all countries involved
6 in the war?

7 THE PRESIDENT: Mr. Tavenner.

8 MR. TAVENNER: If the Tribunal please,
9 this, in the prosecution's view, is an inexcusable
10 use of a leading question to which we object.

11 THE PRESIDENT: The objection is upheld.
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Q Did the discussion relate only to peace
between Germany and Soviet Russia or did it relate
to peace with any other countries?

MR. TAVENNER: If the Tribunal please, I
would like to make the same objection to this question.

THE PRESIDENT: Objection upheld.

What was the discussion about, Witness?

THE WITNESS: The discussions were about these
possibilities of coming to an understanding and peace
with Russia. I was mostly interested to know if there
was any background or any knowledge from the side of
the Japanese government which I could never find out.
The general idea was that when such an understanding
was possible it should be a platform for making peace
with the other nations too.

Q Were these talks initiated by the Foreign
Minister SHIGEMITSU?

A Yes, they were.

Q Was he for or against negotiation of peace
between Germany and Russia and with other countries?

A He was for it and he proposed it.

MR. FURNESS: There is no further direct
examination, if your Honor please, on the part of the
defense counsel.

THE PRESIDENT: Mr. Tavenner.

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1 MR. TAVENNER: If the Tribunal please, do I
2 understand that there will be no further cross-
3 examination -- or redirect examination -- on the part
4 of the first counsel who examined, Mr. Cunningham?

5 THE PRESIDENT: That question is premature,
6 if I appreciate the situation. Neither defense
7 counsel nor the Tribunal can answer that question yet.
8 The defense announced there would be no further exam-
9 ination.

10 MR. TAVENNER: I did not intend, your Honor,
11 to use the word "cross-examination."

12 THE PRESIDENT: But you spoke about redirect.

13 MR. FURNESS: On that I meant "direct examina-
14 tion." I think I said "redirect examination."

15 THE PRESIDENT: Do not be so sharp on the up-
16 take, Mr. Tavenner.

17 CROSS-EXAMINATION

18 BY MR. TAVENNER:

19 Q Mr. Stahmer, you explained in your affidavit
20 the reasons why you were without the possibility of a
21 party career. Did you not arise to the rank of
22 ambassador at large in Germany?

23 A I became ambassador at large in Germany and
24 later ambassador in China and here, but that has nothing
25 to do with party career. What I meant was I was never

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1 promoted in the party; I couldn't be promoted in
2 the party and I got no rank there.

3 Q You were also named consul general in
4 1940, were you not?

5 A I became the character consul general in
6 January 1940 -- the character as consul general, the
7 title.

8 Q To whose influence in Germany was your pre-
9 ferment in the various positions of ambassador at
10 large, ambassador to China, ambassador to Japan, and
11 consul general due?

12 A I was proposed from Ribbentrop, the Foreign
13 Minister, in 1938 and promoted from Hitler as the
14 other officials from the German Embassy here too.

15 Q Was it due then to this special influence
16 and friendship of Ribbentrop that you, a person not
17 entitled to receive or to have a party career, that
18 was responsible for your various elevations?

19 A I was promoted because Ribbentrop was satis-
20 fied with my work.

21 MR. TAVENNER: I cannot help but observe
22 that you have a document of some type in your hands.

23 THE WITNESS: This is the affidavit.

24 MR. TAVENNER: I would appreciate it if you
25 not refer to it during my questions on matters that

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24 MR. TAVENNER: I would appreciate it if you
25 not refer to it during my questions on matters that

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1 are contained in the affidavit.

2 Q Upon the conclusion of the German-Soviet
3 Non-Aggression Pact on August 23, 1939, did the
4 Japanese continue in their efforts to effect a
5 Japanese-German alliance?

6 A No, after the conclusion of the Russian-
7 German Non-Aggression Pact we got a cable in which
8 the Japanese government told us that the negotiations
9 were broken off.

10 Q Did you have access to the files of
11 Ribbentrop or the Foreign Office?

12 A Most generally I could only read what was
13 offered to me to read.

14 Q But generally speaking you had access to
15 those files for the reading of matters that you were
16 interested in and which were connected with your
17 assignments, were you not?

18 A Of course, I could get these cables, docu-
19 ments, which were necessary for my work.

20 Q Did you see in the files of the German
21 Foreign Office a telegram from Mackensen, German
22 ambassador to Rome, directed to Ribbentrop, regarding
23 a conversation between Ambassador SHIRATORI and Macken-
24 sen on the 2d day of September 1939 in which SHIRATORI
25 expressed the opinion that with a new Japanese cabinet

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21 Foreign Office a telegram from Mackensen, German
22 ambassador to Rome, directed to Ribbentrop, regarding
23 a conversation between Ambassador SHIRATORI and Macken-
24 sen on the 2d day of September 1939 in which SHIRATORI
25 expressed the opinion that with a new Japanese cabinet

1 there was a well-founded chance for successful con-
2 tinuation of the stalled rapprochement with the
3 Axis powers and for the purpose of being able to
4 work more effectively he was returning to Tokyo?

5 A No, I have not seen the telegram.

6 Q Were you advised of the contents of that
7 telegram?

8 A No, I am not advised.

9 Q Were you informed or did you learn that
10 SHIRATORI soon after his return to Tokyo, in a con-
11 ference with Ambassador Ott, offered close cooperation
12 in working toward a non-aggression pact between Japan
13 and Russia with the further aim of active cooperation
14 between Germany, Japan, Russia and Italy?

15 A No, I was not informed of that telegram.

16 Q Now, the first telegram that I mentioned,
17 that is the one of September 2, 1939, is prosecution's
18 exhibit 2232 and is found at page 16,003 of the
19 transcript. As to this second telegram relating to
20 the conference between SHIRATORI and Ambassador Ott
21 in Japan, let me see if I can refresh your recollection.

22 Do you recall whether you heard that SHIRATORI
23 was counting on an early failure of the ABE cabinet
24 soon after his return to Japan?

25 A No, I did not hear that.

1 Q The date of the matters I am referring to
2 was in October 1939. Do you recall receiving the
3 information at this same time that SHIRATORI con-
4 sidered that there had been a weakening in the army
5 circles due to the costly military defeat at Nomon-
6 han? Does that refresh your recollection?

7 A No, I am sorry. I cannot recall any con-
8 nection between SHIRATORI and the incident at
9 Nomonhan.

10 Q Do you have any knowledge of the political
11 activities of SHIRATORI in Japan between the time
12 of his return as Ambassador from Italy and the time
13 of your trip to Japan in 1940?

14 MR. CAUDLE: I would like to object to
15 this line of questioning. Mr. Stahmer was in Germany
16 in 1939 and Mr. SHIRATORI came to Tokyo in October, .
17 1939. How could he know?

18 THE PRESIDENT: He could know, and he was
19 merely asked whether he did know.

20 The objection is overruled.

21 A No, I did not know. I only heard in 1940
22 that he became adviser of MATSUOKA.

23 Q Was that legal adviser?

24 A That is a very difficult position which I
25 only found here in Japan. I heard there were different

1 types of advisers. Some of these advisers would be
2 nominated by the ministers themselves, and some, as
3 far as I heard, were nominated by the Prime Minister
4 or the Governor or the Government. I do not know if
5 there were what you call "legal advisers."

6 THE MONITOR: Mr. Tavenner, by "legal
7 advisers" do you mean that they were legally ap-
8 pointed advisers, not the adviser on legal matters?
9 I would like to ascertain that in our translation.

10 THE PRESIDENT: Adviser on legal matters.

11 Q Do you know whether SHIRATORI was appointed
12 adviser by the Foreign Minister?

13 A I do not know. I only know that he was
14 adviser of MATSUOKA.

15 Q The German-Soviet Non-Aggression Pact was
16 concluded on the 23rd of August, 1939. What was the
17 date of your alleged conversation with Ambassador
18 OSHIMA in which you claimed that you notified him
19 that the pact had been signed?

20 A I cannot recollect the exact date, but I
21 know that it was immediately after the first return
22 of Ribbentrop from Moscow.

23 Q And can you not fix the date?

24 A No, I am sorry. I remember Ribbentrop went
25 to Moscow twice, and after his first trip he told me

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1 to inform Ambassador OSHIMA. I cannot remember
2 exactly.

3 Q Where was Ribbentrop at the time that you
4 claimed that you notified OSHIMA?

5 A As far as I remember he came back from
6 Moscow. I was in Berlin, and he took the plane,
7 I suppose, to Bertchesgaden.

8 Q Well, was it before the signing of the pact
9 on the 23rd of August or after the signing of the
10 pact that you notified OSHIMA?

11 A I believe after the 23rd, after the signing
12 of the pact.

13 Q About how many days?

14 A Very shortly after the return of Ribbentrop.

15 Q As a matter of fact, Mr. Stahmer, had not
16 Ambassador OSHIMA been notified of the proposed pact
17 by Ribbentrop himself as early as the evening of
18 August 21, 1939?

19 A I know that Ribbentrop told me to inform
20 Ambassador OSHIMA because it was a very difficult
21 task for me, and that he ordered me to tell him that
22 the German-Russian Aggression Pact was concluded and
23 he, Ribbentrop, would come to see OSHIMA as soon as
24 possible and talk the situation over with him.

25 THE PRESIDENT: We will adjourn until half-

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1 past nine tomorrow morning.

2 (Whereupon, at 1600, an adjourn-
3 ment was taken until Tuesday, 17 June 1947,
4 at 0930.) - - - -

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1 MR. CUNNINGHAM: Next, your Honors, I should
2 like to present defense document 1714, an additional
3 sworn statement by the witness, and I ask that the
4 document be presented to the witness.

5 THE PRESIDENT: Mr. Tavenner.

6 MR. TAVENNER: I understand counsel does not
7 offer the document at this time but is merely present-
8 ing it to the witness.

9 THE PRESIDENT: It was served on the Judges
10 for the first time today. Of course, he is at liberty
11 to show the document to the witness. Show the document
12 to the witness.

13 (Whereupon, a document was handed
14 to the witness.)

15 MR. CUNNINGHAM: I ask you to examine defense
16 document 1714 and ask you to state if that is your sworn
17 statement.

18 (Addressing Clerk of the Court) The original
19 is there. The original is there with the signature on
20 the back page.

21 I ask you to examine the document and state
22 whether or not all the statements contained therein are
23 true.

24 THE PRESIDENT: His signature would relieve
25 him of the necessity to reading the whole document

1 through, Mr. Cunningham. We haven't time to waste
2 while he reads it through.

3 MR. CUNNINGHAM: Well, the witness is familiar
4 with the document.

5 THE PRESIDENT: This is a copy, you know. That
6 copy could have been made independently of the document.
7 Before he can be sure he must read the lot, but if he
8 had his signature he need not do so. Of course, if you
9 assume that is a carbon copy of the original that is
10 all right, but you can make no such assumption about
11 carbon copies. Let him assume, if he wants, that it
12 is a carbon copy and let him say, "Yes, that is the same
13 as the original," but it will be an assumption.

14 MR. CUNNINGHAM: Well, I personally delivered
15 the signed copy to the clerk's office and I can't do
16 any more than that. Now I am trying to substitute a
17 copy of it until they find the one with the original
18 signature on it.

19 THE PRESIDENT: Is that copy the same as the
20 original you signed?

21 THE WITNESS: Yes, it is the same copy, and
22 it is true.

23 THE PRESIDENT: Mr. Tavenner.

24 MR. TAVENNER: If the Tribunal please, in the
25 interest of saving time, I have a number of objections

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1 to make regarding specific questions and answers and,
2 if counsel is willing, we could proceed with that matter
3 before the document is formally tendered.

4 THE PRESIDENT: I think that is the desirable
5 thing to do because if it is tendered we will have to
6 take the point that we weren't served twenty-four hours
7 in advance -- I mean three days in advance.

8 MR. CUNNINGHAM: Well, your Honor, there is
9 a misunderstanding about that. As I understood it,
10 the other day you said that the twenty-four hour rule
11 now applied to affidavits.

12 THE PRESIDENT: As far as I am concerned,
13 twenty-four hours will do. But that isn't the rule.
14 Three days. That is for judges copies.

15 MR. CUNNINGHAM: Well, I understand it you
16 changed that rule the other day and said the same thing
17 applied to you as applied to the prosecution -- twenty-
18 four hours in advance. Now I can't keep track it seems.

19 THE PRESIDENT: All the judges disclaim that
20 any such statement was made. Unfortunately for you,
21 there is a record to correct you.

22 MR. CUNNINGHAM: Well, anyway the documents
23 have certainly been in circulation for a week and I
24 can't understand why the judges don't get their copies.
25 I can't control that.

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1 But, your Honors, as to the order of making
2 objections, it seems to me that it would be very
3 difficult to sustain an objection in the middle of
4 the testimony, whereas it would be more practicable
5 to rule on the objections as they come in their logical
6 order, because how are you going to take the middle of
7 a document here and say, "This has no bearing," when
8 you can't, unless you read the balance of the document,
9 know what has gone on before?

10 THE PRESIDENT: The question could not arise
11 if this were in narrative form. The mere fact that it
12 is in the form of questions and answers makes no differ-
13 ence. We would still have to read the lot, perhaps.

14 Here is the original now, I understand.

15 MR. CUNNINGHAM: Well, your Honor, the reason
16 the question arises is that I can't see how this
17 particular document could be reduced to narrative form
18 because it doesn't lend itself to that sort of treat-
19 ment and that is the reason I had to deal with it in
20 this way.

21 THE PRESIDENT: If, in the course of writing
22 our judgment, we have to deal with this particular
23 interrogation, we certainly shall put it in narrative
24 form and we will have no difficulty.

25 Mr. Tavenner.

1 MR. TAVENNER: If the Tribunal please, the
2 prosecution insists on making its objections to these
3 questions and answers before they are actually reached
4 in the reading. The attention of the Tribunal is
5 called to the fact that on the first occasion that this
6 document was mentioned counsel proposed to ask these
7 questions without serving the document on the prosecu-
8 tion. Now an effort is being made to introduce the
9 document piecemeal. The defense was directed by the
10 Tribunal to put this document in affidavit form but,
11 in the interest of saving time, the prosecution doesn't
12 insist on that.

13 THE PRESIDENT: But we have a strong objection
14 to an affidavit being made and then followed by hundreds
15 of questions as Mr. Cunningham proposed. He anticipates
16 that by getting another affidavit. All we are saying
17 is that copies of that affidavit were not served on the
18 judges three days in advance of the attempt to use it.
19 We can hardly say we won't take two affidavits from the
20 same witness, much as we dislike doing so.

21 MR. CUNNINGHAM: Well, your Honor, charges are
22 made in the Indictment in specific, short, snappy
23 sentences that certainly cannot very well be answered
24 in narrative form the way I --

25 THE PRESIDENT: All I can say is that the

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1 affidavit cannot be read as a document in evidence
2 unless that requirement of service is met, but we may
3 have a discussion on the preliminary question of whether
4 such evidence could be admitted at all. That is what
5 Mr. Tavenner wants. Your only reply is that this is
6 an interrogation and not a narrative, and there is no
7 difference in substance between the two for our purposes.

8 MR. CUNNINGHAM: Well, your Honor, what about
9 this for a compromise: I suggest that the document
10 be offered in evidence, that the prosecution be per-
11 mitted to make their objections in toto, that we be
12 permitted to read the document and waive the thirty-six
13 or seventy-two hour rule of the Court, and that we be
14 permitted to proceed with this evidence. It is slowing
15 down the procedure.

16 THE PRESIDENT: In other words, that Mr.
17 Cunningham be placed above the rules but everybody else
18 be left subject to them.

19 MR. CUNNINGHAM: Well, as I understand it,
20 your Honor, these copies were delivered to the judges
21 on Friday, and I think that the rule of seventy-two
22 hours is probably a technical one. If there is an
23 advantage that we are taking away from the Members of
24 the bench on account of it, why, it would be a simple
25 matter for the judges to take this and read it in

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1 fifteen or twenty minutes, which is going to be required
2 of me.
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1 THE PRESIDENT: The rules must be observed.
2 I will say no more about it. This is obstructionist.

3 MR. CUNNINGHAM: Well, now, your Honor, I
4 can't follow the position. What are we to do now?

5 THE PRESIDENT: You will agree to Mr. Tavenner's
6 suggestion. If you don't, we will make you. We also
7 insist on that course ourselves. We have the right
8 to do it. The Charter gives us the power and we will
9 exercise it.

10 Let us have a discussion on the admissibility
11 of this interrogation straightaway. We will treat this
12 as an argument on the question whether this interrogation
13 can be admitted; and we will hear you first, Mr.
14 Tavenner.

15 MR. TAVENNER: If the Tribunal please, this
16 interrogation is so drawn that virtually every question
17 is in the form of a leading question, and much of it
18 deals with irrelevant and immaterial matters.

19 THE PRESIDENT: We have admitted affidavits in
20 the form of interrogations previously, Mr. Tavenner.
21 If I recollect rightly, they came from the prosecution's
22 side as well as from the defense side. We must be
23 consistent.

24 MR. TAVENNER: I was not objecting on the
25 ground that the document is in the form of questions

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and answers, because that procedure has been followed
1 by both the prosecution and the defense. It is not
2 my purpose to rely upon the objection that the ques-
3 tions are leading where that is the sole objection.
4

THE PRESIDENT: Some of the prosecution's
5 questions in these cases were certainly leading.
6

MR. TAVENNER: I merely desire that the leading
7 form of the question be taken into consideration along
8 with the other objections which I will make.
9

THE PRESIDENT: We have repeatedly said that
10 a leading question reduces the value of an answer
11 considerably; sometimes to the vanishing point.
12

MR. TAVENNER: Specific objection is made to
13 all of the questions and answers on page 1 with the
14 exception of the first question.
15

As to question 2, the question and the answer
16 elicited are repetitive, in that the same matter is
17 considered in the first paragraph of section 12,
18 page 9 of the affidavit.
19

Question No. 3 and the answer elicited are
20 objectionable on the same ground in that the matter is
21 covered by the affidavit on page 7.
22

Question 4 is likewise repetitive in that it
23 is the same matter as is considered in question 2 and
24 on page 12 of the affidavit.
25

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1 Objection is made to question 5 in that the
2 subject matter of that question is entirely irrelevant
3 and immaterial to any issue here.

4 Question 6 is objected to on the ground that
5 the witness could not possibly know of the instructions
6 that OSHIMA received or did not receive from
7 his government, and, therefore, his answer proves
8 nothing.

9 On page 2, objection is made to question 10
10 in that the interest of OSHIMA in party politics in
11 Japan could not be a matter within the knowledge of
12 the witness; and even if true, the answer is irrelevant
13 and immaterial.

14 Question 11 is divided into two questions --
15 I believe it is three questions. Objection is made
16 to the question in so far as it relates to the foreign
17 policies of the various Japanese cabinets, in so far
18 as the witness answers that they had merely different
19 political ideas. It has no probative value. The
20 last part of question 11 refers to the same question
21 of the interest of OSHIMA in political parties in
22 Japan, and for that reason is repetitive in that it
23 is covered in questions 2, 4, 10, and also on page 12
24 of the affidavit.

25 Question 12 is objected to. The witness

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1 could not possibly know of the official acts of
2 OSHIMA based upon telegrams and messages and commissions
3 of the Japanese Government. The answer elicited has
4 no probative value.

5 The next question relates to the expression
6 of views by the witness -- rather, the views of OSHIMA.
7 The witness could not be qualified to express an
8 opinion of that character.

9 The following question regarding the conflict
10 of views between foreign minister and ambassador is
11 a hypothetical question which is objected to.

12 THE PRESIDENT: We will recess for fifteen
13 minutes.

14 (Whereupon, at 1045, a recess was
15 taken until 1100, after which the proceedings
16 were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: If the Tribunal please, objec-
5 tion is made to Question 13, on page 3, which is in
6 two parts, on the ground that the question calls for
7 a construction of international law by the witness.

8 Question 14 is objected to, or rather, the
9 answer to that question is objected to, on the ground
10 that, after stating that he does not know, he attempts
11 to give his belief about the subject matter of the
12 question; and, in addition, the matter is repetitive.

13 On page 4, objection is made to the first
14 question on the ground that it is repetitive. The
15 same general subject matter is covered in questions
16 2, 4, 12 and others.

17 The second question is objected to on the
18 ground that it is repetitive and the answer, as it
19 is noticed, speaks of the witness' impression, so
20 the additional objection is made that there is no
21 probative value.

22 Question 3 is likewise repetitive -- I
23 believe I am in error in stating that that is
24 repetitive -- but the answer to the question is of
25 a purely repetitive character and, for that reason,

1 is objected to.

2 The 4th question is repetitive, and, in
3 addition, the witness speaks of his impression.

4 The 5th question -- both the first and
5 second questions under it are repetitive.

6 On page 5, the answer to the last
7 question is objected to on the ground that it is
8 virtually a repetition of a statement appearing
9 in the affidavit. It is therefore repetitive and
10 should be excluded.

11 On page 6, the answer to question 3 is
12 repetitive, the same matter having been dealt with
13 in the affidavit, and part of it, in fact, seems to
14 be almost a quotation of the affidavit.

15 On page 7, the answer to question 8: objec-
16 tion is made to the answer, with the exception of the
17 first four words, "I do not know."

18 On page 8, question 14, the witness is asked
19 to state his impressions with regard to certain
20 matters relating to the foreign policy of Japan.
21 Objection is made on the ground that the witness is
22 not entitled to state his impressions or opinions.

23 At the top of page 9, the answer of the
24 witness to question 21 is objected to on the ground
25 that, after having stated that he had never been told

1 regarding the potential character of the Soviet Union's
2 participation in the Tri-Partite Pact, he proceeds
3 then to state his personal beliefs.

4 Objection is made to the answer to question
5 22 in that it is merely a statement of the witness'
6 belief and is made for the purpose of argument, and
7 should be excluded for both reasons.

8 Question 26 is objected to on the ground that
9 it is repetitive, the same matter having been stated
10 in the affidavit.

11 The next question even goes so far -- that
12 is 27 --- as to ask whether it was likely that a
13 certain conversation had taken place. It is, of course,
14 objected to on the ground that it calls for a merely
15 speculative answer and is grossly leading.

16 Question 28 is objected to on the ground
17 that it calls for the witness's opinion as to what
18 MATSUOKA'S opinions were.

19 This constitutes the objections I had in mind.

20 THE PRESIDENT: Mr. Cunningham.

21 MR. CUNNINGHAM: In answer to the objections
22 made by the prosecutor, I suggest that each question
23 seems to tie in very definitely with some specific
24 charge made in the Indictment, and that was the pur-
25 pose. Each question answers some specific charge

STAHMER

DIRECT

1 made by the prosecution in their evidence.

2 On question number 2 OSHIMA is charged with
3 violating instructions. This is to answer that
4 charge.

5 No. 3: He is charged with participating
6 in the Tri-Partite Pact. This is to answer that
7 charge.

8 PRESIDENT: I think you overlooked the fact
9 that it is OSHIMA who is charged, not Stahmer.

10 MR. CUNNINGHAM: No. 4: The question whether
11 or not Mr. OSHIMA did anything else beside his ambass-
12 adorial duties involved, and this answer in par-
13 agraph 4, question 4, seems to take care of that.

14 Question 5: There is involved here a ques-
15 tion, -- to what extent should an ambassador be held
16 responsible for the policy of his government. This
17 hits that right between the eyes.

18 No. 6: It is usual and customary in matters
19 of diplomatic procedure for an ambassador to show his
20 telegrams to the representatives of the other govern-
21 ment in order to show good faith in their transactions.

22 Question No. 10, on page 2: There is a
23 question whether or not an ambassador engages in party
24 politics or is above party politics, and this answer
25 takes care of this contention.

STAHLER

DIRECT

1 On No. 10, the question arises, did the
2 Japanese leaders carry on a continuity of foreign
3 policy or did the foreign policy change from time to
4 time. This answer deals with this matter emphatic-
5 ally.

6 I think question 11 and the answer is
7 probably the most significant statement in this whole
8 series of questions and answers and, certainly, is
9 relevant and material.

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STAHMER

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1 On No. 12, as I stated, it is customary for
2 an ambassador to confer closely with the liaison and
3 to show the information which he gets from his country
4 in order to show good faith in the transaction. The
5 last part of No. 12 shows that it may be hypotheti-
6 cal, but it certainly indicates that it is the
7 foreign minister whose policy is being carried out
8 and not the ambassador in carrying on foreign rela-
9 tions with third parties.

10 On No. 13, prosecution suggests this is a
11 construction of international law. I deem it a
12 confirmation of international law.

13 On No. 14 --

14 THE PRESIDENT: We do not want the witness'
15 imprimatur.

16 MR. CUNNINGHAM: I did not understand.

17 THE PRESIDENT: We do not want the imprima-
18 tur of any witness.

19 MR. CUNNINGHAM: Now, on page 4, the first
20 question, the prosecution says it is repetitive. I
21 cannot see that that question was specifically
22 answered before, and that is the test of it being
23 repetitive. On the last part of the question, as
24 to probative value, I think that has to be tested
25 from the whole document and the other documents to be

STAHLER

DIRECT

1 received and not from one isolated question.

2 On No. 3, the defendant is charged with
3 some responsibility for the policy of the Japanese
4 Government. I cannot say that that has been answer-
5 ed before.

6 On No. 5, if the Tribunal says that that
7 question has been satisfactorily answered before,
8 then, perhaps, it is repetitive, but I cannot be-
9 lieve that any witness or any other document has
10 answered that question before.

11 On page 5, the last part that is objected
12 to is the statement of the witness which, I submit,
13 is admissible; and, since the Tribunal has ruled it
14 out on the other affidavit, perhaps we may be bound
15 by that ruling.

16 On page 6, on the question, the charge of
17 the prosecution is stated specifically; the answer
18 to that charge is stated specifically; and I cannot
19 believe that it is a repetition of anything that has
20 been said if the affidavit or elsewhere.

21 Page 7, question 8, the witness says he
22 does not know, meaning generally, but he does know
23 specifically an instance. I cannot see how he
24 should be excluded from stating his specific infor-
25 mation even though he is reluctant to take a general

STAMMER

DIRECT

1 stand.

2 On page 8, question 14, these defendants
3 are charged with a conspiracy as being the govern-
4 ment of Japan. This question and answer specific-
5 ally refutes that allegation.

6 Page 9, question 22, I admit Ambassador Ott
7 would be the best witness on that question. He is
8 not available, and this is the best secondary evi-
9 dence I can give on that question.

10 I do not have a note here on my memorandum
11 as to what the specific objection to No. 21 was.
12 Therefore, I will have to pass it.

13 THE PRESIDENT: Obviously, on the ground
14 that it involves an opinion.

15 MR. CUNNINGHAM: I believe the witness'
16 opinion on that question is relevant and material
17 and should be admitted.

18 26 is said to be repetitive. If the Court
19 is satisfied it has heard enough about that, then
20 we will consider it cumulative. But I do not think
21 this witness has said that before, which is the test
22 of being repetitive.

23 On 27, "Is it likely that such a conversa-
24 tion took place?" -- Ribbentrop said it didn't take
25 place. I wanted this witness to state whether or

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1 not it did.

2 On 28, I was not asking for the personal
3 opinion but the official opinion of the witness
4 which, I think, would be relevant and material.

5 In order to make question 31 clear, I would
6 like to insert "in 1941" after "Germany."

7 BY MR. CUNNINGHAM (Continued)

8 Q Now I would like to have the witness state
9 whether or not that is his signature on the back of
10 the original document and whether or not the con-
11 tents thereof are true.

12 Will you look at defense document 1714 and
13 state whether or not that is your signature placed
14 thereon and whether or not the contents of the document
15 are true.

16 A Yes, that is my signature and the contents
17 of the document are true.

18 MR. CUNNINGHAM: I now offer in evidence
19 defense document 1714, subject to the ruling of the
20 Tribunal on the objections and the argument on the
21 objections.

22 THE PRESIDENT: By a majority the objections
23 are upheld and the document admitted subject to the
24 objections. The admission is on the usual terms. You
25 may read only so much of the document as has not been

objected to.

1 CLERK OF THE COURT: Defense document 1714
2 will receive exhibit No. 2744-A.
3

4 (Whereupon, the document above
5 referred to was marked defense exhibit No.
6 2744-A and received in evidence.)

7 THE PRESIDENT: The Judges wish me to tell
8 you, Mr. Cunningham--

9 MR. CUNNINGHAM: Your Honors, in order to
10 give continuity to the testimony of this witness I
11 suggest that we start at page 6 and go to the end and
12 then start at page 1 to the bottom of page 5.

13 THE PRESIDENT: I will assume you did not
14 attempt deliberately to interrupt me, Mr. Cunningham.
15 It is a very favorable assumption.

16 The Judges have asked me to tell you that
17 they insist on the observance of the rule as regards
18 the service of Judges' copies and other copies. You
19 may proceed, however, to read so much of this document
20 as has not been successfully objected to.

21 MR. CUNNINGHAM: Starting on page 6, top of
22 the page, reading from exhibit 2744-A:

23 "QUESTIONS AND ANSWERS

24 for

25 "AMBASSADOR STAHLER

STAHMER

DIRECT

1 "Collaboration - Japan, Germany and Italy
2 based upon opening statement of the prosecution on
3 this phase.

4 "1. To what extent did any Japanese statesmen,
5 other than MATSUOKA, participate in the negotiations
6 with you and Ambassador Ott prior to the conclusion
7 of the Tri-Partite Pact in September 1940?

8 "A. Only MATSUOKA participated, no other Japanese
9 statesman.

10 "2. During your negotiations with MATSUOKA did
11 he at any time interrupt conferences or conversations
12 to confer and consult with other Japanese statesmen
13 concerning the content, wording or intent of the Tri-
14 Partite Pact?

15 "A. No, during our negotiations MATSUOKA did not
16 even telephone with other people."

17 Going to question 4:

18 "4. It is stated that the accused OSHIMA and
19 SHIRATORI were sent to Rome for the purpose of inducing
20 Mussolini to enter in to the proposed Tri-Partite Pact.
21 Is this statement true? If not, explain to what extent
22 Ribbentrop and Hitler had previously negotiated and
23 conferred with Mussolini concerning this matter.

24 "A. It is not true, according to my knowledge,
25 that OSHIMA and SHIRATORI were sent to Rome to induce

STAHMER

DIRECT

1 Mussolini to enter in the proposed Tri-Partite Pact.

2 The German Government could and would never use
3 Foreign ambassadors for such a purpose. Besides,
4 as I know definitely, Hitler and Ribbentrop had
5 already talked with Mussolini about the idea of a
6 Tri-Partite Pact during the Munich Conference in
7 September 1938 where Mussolini agreed principally.

8 "5. Were you advised as to the mission of the
9 ITO Commission which was sent to Berlin and Rome
10 relating to the abortive Tri-Partite agreement?

11 "A. No."

12 Page 7, question 6:

13 "6. In Count Ciano's Diary it is related that
14 SHIRATORI and OSHIMA refused to follow the instruc-
15 tions delivered by the ITO Commission. What has been
16 your experience concerning the accuracy of the items
17 set out in the Ciano diary?

18 "A. I have only read an abridged version of
19 Ciano's diary, but I do not take it as a historical
20 document. He asserts, for instance, that he was
21 against the Italians attacking Greece, but at that
22 time I heard from the Italian Embassy that Ciano
23 assisted this plan very much and was proud of it; only
24 after the Italian defeat in Albania he changed his
25 opinion.

STAHLER

DIRECT

1 "7. It is charged that the ambassadors asserted
2 that they would resign in the event the pact of
3 alliance was not concluded without reservation. Were
4 you aware of any such condition?

5 "A. I did not hear of this assertion, if it is
6 true, the Japanese Government must know it. I think
7 I would have known of it, surely, if it were true.
8 The only mention I have ever heard of such a thing
9 was from the one source."

10 Question 9:

11 "9. It is charged that negotiations for Japanese-
12 German alliance were renewed by KURUSU on the 19 June
13 1940. Please explain this statement in the light of
14 the actual circumstances.

15 "A. KURUSU only told the German Government that
16 the new government in Tokyo wanted a closer contact;
17 he did not begin negotiations otherwise it would not
18 have been necessary to send me to Tokyo, because the
19 situation was too obscure to be analyzed from Berlin.
20 As far as I know, he was during the negotiations in
21 Tokyo only very scantily informed by his own government.

22 "10. It is charged that on 8 July 1940 Ambassador
23 SATO and KURUSU in conference with you and Ribbentrop
24 conferred concerning the relations between Japan and
25 Germany. Please explain the nature and extent of this

STAHLER

DIRECT

1 discussion.

2 "A. That was no conference, but only a courtesy
3 call with a normal conversation, where I got the im-
4 pression that both sides wanted to avoid any remark
5 concerning unsolved political questions. I remember
6 that the Japanese Minister KAWAI who traveled at
7 that time in Europe was present.

8 "11. To what extent the French and Dutch East
9 Asia colonies came in for discussion during this
10 conversation?

11 "A. I have no recollections.

12 "12. To what extent had the Japanese statesmen
13 manifested their fears concerning the interest of
14 Germany in the Pacific Isles?

15 "A. Same as question number 11.

16 "13. To what extent did the appointment of
17 MATSUOKA affect the Japanese Foreign policy towards
18 Germany?

19 "A. From the new cabinet with KONOYE as Prime
20 Minister and MATSUOKA as Foreign Minister we got the
21 impression that this cabinet was interested to come
22 to a closer contact with Germany. When I arrived in
23 Japan I found that the government had already made
24 preparations for a pact with Germany and Italy."

25 Eliminating 14, going to 15:

1 "15. At the time when you arrived in Tokyo for
2 the negotiations of the Tri-Partite Pact did you
3 consider that Japan and the United States would become
4 engaged in war in the Pacific?

5 "A. No, I wanted to prevent the entrance of the
6 United States into the war.

7 "16. The prosecution has stated that the 20 million
8 of German-descent Americans were considered to hold
9 an influential position in the United States. Would
10 you please state what you told MATSUOKA concerning this?

11 "A. When MATSUOKA asked me about the influence of
12 the German-descent Americans, I told him that I believed
13 they were better American citizens than many other
14 Americans, and informed him of my experiences in that
15 line in Chicago.

16 "17. Did you discuss the terms of the Tri-Partite
17 Pact with Prince KONOYE or any other cabinet member
18 before or after its completion in Tokyo?

19 "A. No, neither with Prince KONOYE nor any other
20 cabinet member whom I saw. Only after the signature,
21 during official lunches or dinners was the matter com-
22 mented upon.

23 "18. Please explain the circumstances which brought
24 about the signing of the Pact in Berlin rather than in
25 Tokyo.

STAHMER

DIRECT

1 "A. I do not remember; the German Embassy in
2 Tokyo got a cable some days before the negotiations
3 were finished that Germany and Italy wanted to have
4 the pact signed in Berlin.

5 "19. Please explain MATSUOKA's idea concerning
6 this matter.

7 "A. At first he seemed a little reluctant, but
8 very soon he agreed; I believe that, as a sort of
9 compensation, Ribbentrop invited him on the evening
10 of the 27 September to come to Berlin."

11 I understand 21 is objected to.

12 THE PRESIDENT: 22 also.

13 MR. CUNNINGHAM: 22 also; going to 23:

14 "23. Upon the arrival of Foreign Minister
15 MATSUOKA in Germany in 1941 did he advise you of
16 the principle international question which he desired
17 to discuss with Ribbentrop?

18 "A. No.

19 "24. Did you at any time learn of the purpose
20 of his mission?

21 "A. I only heard shortly after he had left Berlin
22 that he wanted to make a non-aggression pact with the
23 Soviet Union.

24 "25. As far as you know was Ambassador OSHIMA
25 advised beforehand or during the visit of the object

STAHMER

DIRECT

of his tour?

1 "A. I do not know, because OSHIMA did not tell me."

2 Going to the top of page 10:

3 "29. It is stated (p30) that 'On the 24 May 1941
4 a report was made by German Military Attache in Tokyo
5 to German Foreign Intelligence Office that Japan ac-
6 knowledged her treaty obligations in the event United
7 States entered the war.' Is this statement based on
8 facts?

9 "A. I do not know. I never heard of it.

10 "30. It is charged that 'When the Tri-Partite
11 Pact was concluded 27 September 1940, MATSUOKA in
12 reply to a question stated that an agreement would be
13 negotiated between the three powers for a no separate
14 peace pact in the event of hostilities.' Are you aware
15 of any such statement being uttered at that time?

16 "A. I do not remember to have talked with MATSUOKA
17 about a 'no separate peace clause.'

18 "31. Up until the time you left Germany in 1941
19 were the officials of the government informed of the
20 state of negotiations between Japan and the United
21 States? Please explain this situation.

22 "A. When I was still in Germany in 1941, the
23 German officials concerned were very nervous, because
24 they never got a clear answer of the state of negotiations
25

STAHMER

DIRECT

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1 between Japan and the United States, during early
2 1941 until October when I left. We only heard in-
3 directly and thru unreliable information or rumors.

4 "32. It is stated that on the 18 January 1942
5 the armed forces of Japan, Germany and Italy concluded
6 military agreement 'In the spirit of the Tri-Partite
7 Pact 27 September 1940,' and provided for operational
8 coordination among them. Was any such situation con-
9 templated at the completion of the Tri-Partite Pact?

10 "A. At the time of the signature of the Tri-
11 Partite Pact no such action or situation was contem-
12 plated."

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1 Now, going to page 1, I am going to require
2 a little help on this because my notes are
3 not as adequate as they might be. (Reading):

4 "1. At any time during your conversations,
5 negotiations conferences with Ambassador OSHIMA did
6 he at any time commit himself as favorable to Japanese
7 commencing or participation in any war?

8 "Answer: No, he did not commit himself in
9 that way."

10 No. 7 (reading):

11 "7. Were there any collaboration between
12 Germany and Japan as far as you know that was not
13 provided for by treaty and regulated by some agree-
14 ment entered into thru the established diplomatic
15 channels?

16 "Answer: There was no collaboration between
17 Germany and Japan, as far as I know, that was not
18 provided for by treaty and went not through the
19 established channels.

20 "8. Were all of OSHIMA's dealings with
21 you and with Ribbentrop usual procedure adopted by
22 other diplomats in their relations with Germany?

23 "Answer: OSHIMA's dealings with me and
24 with Ribbentrop were not different at all from the
25 dealings of other ambassadors with whom I had to work.

STAMMER

DIRECT

1 "9. Did OSHIMA ever interest himself in
2 matters outside of his diplomatic tasks and duties
3 which were contrary to the best interest of either
4 Germany or Japan and those required of his office?

5 "Answer: No, not so far as I know."

6 Now, next to the last part of question 11:

7 "Q Were new contacts always necessary when
8 a change in Cabinet took place?

9 "Answer: Yes, in Tokyo the embassy always
10 had to try to keep up contact with the changing
11 ministers."

12 Then we go to --

13 THE PRESIDENT: The last two questions on
14 page 4.

15 MR. CUNNINGHAM (reading):

16 "Q Was there any definite continuity in
17 the foreign policy of Japan towards Germany over the
18 period of years of your association with this problem?

19 "A Though the Germany foreign policy
20 towards Japan was unchanged, the Japanese policy as
21 far as Germany was concerned changed several times;
22 the ideas of the Government KONOYE - HIROTA (summer
23 1938), HIRANUMA - ARITA (January 1939), and KONOYE -
24 MATSUOKA (July 1940) in that line was extremely
25 different.

STRAIMER

DIRECT

1 "Q Did you ever have any conversations or
2 negotiations with Ambassador OSHIMA which would in-
3 dicate to you that he bore any closer relationship
4 to one of the nine foreign ministers of Japan than
5 to the other eight, who were in charge of foreign
6 affairs during his tour of duty as Ambassador?

7 "A No, I have never heard him express
8 greater friendship towards any foreign minister
9 particularly; having been absent such a long time
10 from Japan, probably he did not even know them
11 personally.

12 "Q It is charged that the object of the --
13 THE PRESIDENT: It is charged as being
14 repetitive.

15 MR. CUNNINGHAM: I guess that finishes --
16 signature, Heinrich Stahmer.

17 Now, your Honor, that concludes the reading
18 of these two documents. Several of the defense counsel
19 say that they have questions they would like to pro-
20 pound to this witness on direct examination concern-
21 ing individual defendants.

22 THE PRESIDENT: Mr. Logan.

23 MR. LOGAN: If the Tribunal please, I desire
24 to ask a few questions on behalf of the accused,
25 Marquis KIDO, pursuant to paragraph 1 of the rules

1 of this court on or about March 11, 1947.

2 DIRECT EXAMINATION (Continued)

3 BY MR. LOGAN:

4 Q Mr. Stahmer, did you ever meet and talk with
5 Marquis KIDO at any time?

6 A No, I do not remember having ever met him
7 and talked with him.

8 Q In your official capacity as a representa-
9 tive of the German Government from 1938 on, was it
10 part of your duties to ascertain the views of persons
11 associated with the Japanese Government with regard
12 to political, international, and military matters, and
13 more especially with regard to German-Japanese relation-
14 ships?

15 A Since I became Ambassador here in January 1943
16 it was a part of my duty to try to find out especially
17 the feeling of the leading statesmen and responsible
18 men toward Germany.

19 Q Did you make such an investigation with
20 respect to Marquis KIDO's views?

21 A Yes, I asked, too, about Marquis KIDO at
22 that time.

23 Q What was the information you received,
24 stating from whom you received it and when?

25 THE PRESIDENT: Mr. Tavenner.

STAHMER

DIRECT

1 MR. TAVENNER: Objection has been made
2 if the Tribunal please, to the investigations made by
3 the witness on the ground that it is hearsay testimony.

4 THE PRESIDENT: That goes to weight only in
5 this court. You had better find a better ground.

6 MR. TAVENNER: I do not know of any better
7 ground.

8 THE PRESIDENT: The objection is overruled.

9 MR. LOGAN: You may answer, Mr. Stahmer.

10 A I asked about Marquis KIDO, too, and heard from
11 several of my officials that he was always regarded
12 very much pro-Anglo-Saxon and never had proved any
13 especially friendly feeling toward Germany.

14 THE PRESIDENT: Mr. Tavenner.

15 MR. TAVENNER: If the Tribunal please, I
16 would like to inquire whether the witness has a
17 memorandum in his hand, to which he is referring.

18 THE WITNESS: No.

19 THE PRESIDENT: He says he has not.

20 MR. TAVENNER: Yes. I would like to object
21 to the answer and move that it be struck on the ground
22 that it is an opinion of his subordinates.

23 THE PRESIDENT: Mr. Logan.

24 MR. LOGAN: If the Tribunal please, we have
25 a situation here where these accused, including

STAHLER

DIRECT

1 Marquis KIDO, is accused to collaboration with
2 the German Government and officials of the German
3 Government. Certainly the opinion of the Ambassador
4 in his investigations would warrant the introduction
5 of evidence at this time from this witness, who was
6 the Ambassador here, as to what the reputation of
7 Marquis KIDO was with the German Government. It
8 is fundamental and only natural that the Ambassador
9 should try to find out just what the situation and
10 views of the men are with whom he intends to deal,
11 and while this is not strictly reputation evidence,
12 it is of that nature, which is fundamentally admitted
13 in any court.

14 THE PRESIDENT: We will hear you further
15 after lunch, Mr. Logan.

16 We will adjourn until half-past one.

17 (Whereupon, at 1200, a recess
18 was taken.)
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STAHLER

AFTERNOON SESSION

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The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

HEINRICH STAHLER, called as a witness on behalf of the defense, resumed the stand and testified as follows:

THE PRESIDENT: Mr. Logan.

MR. LOGAN: If the Tribunal please, the only other observation I have to make is that there was no objection that the answer was not responsive, and in my submission it was responsive to a question to which an objection had unsuccessfully been taken by the prosecution.

THE PRESIDENT: The evidence is really in the nature of opinion entertained by officials about your client. They can tell us through the witness what KIDO said, from which we might draw our conclusions. The evidence is really in the nature of a certificate of character, which is not really relevant to any issue. It might go to mitigation, assuming there should be punishment to be considered later, but it is for the Court to say whether they are prepared to receive this

STAHMER

1 evidence at this stage. It is a matter of discretion.
2 It does seem to be anticipating. That is the diffi-
3 culty.

4 MR. LOGAN: May I say this in answer to the
5 Tribunal's statement? Of course we all know a person's
6 character is what he is himself. His reputation is
7 what other people believe him to be. In the ordinary
8 lawsuit, of course, where character and reputation
9 evidence is at issue, the test is whether a person's
10 reputation -- what his reputation is for veracity and
11 truth; but that is a little different from the case
12 here. Here we have a situation of an ambassador of a
13 government assuming his functions as such, and in the
14 nature of things he must find out the reputation of the
15 persons of the Japanese Government with whom he has to
16 deal.

17 I use the word "reputation" in the sense
18 of an expression of the views of that particular per-
19 son with respect to any relationships between the two
20 governments, that is, whether he is pro-German, pro-
21 American, pro-British, or what his situation is,
22 and of necessity the ambassador must rely on the state-
23 ments of the others in his department. In so far as
24 the answer he gave relates to the fact that it was
25 based on opinions of others under him, that is no

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1 reason for excluding his answer; it may only go to the
2 weight of the answer.

3 I might also add that evidence of this kind,
4 I understand, is admissible at any time in a trial.

5 THE PRESIDENT: Mr. Tavenner.

6 MR. TAVENNER: If it please the Tribunal,
7 the situation here must not be confused with that of
8 general reputation evidence. What the defense is seek-
9 ing to do with this witness is to have him testify
10 regarding a third person's opinion regarding the
11 opinion of still another person. It is an effort to
12 establish a specific quality of mind by stating what
13 some other person thought about it. Certainly no
14 court has gone as far as that; and if this Tribunal
15 is to accept that as a gage of the admissibility of
16 evidence, a witness could be placed on the stand to
17 swear the issues as to every accused in the dock.
18 And again, the situation that counsel has described
19 where a witness must act upon what he knows to be the
20 opinion of others is not applicable here, because we
21 are not concerned with the thought or the action of
22 this witness.

23 For these reasons we respectfully request
24 that the objection be sustained.

25 THE PRESIDENT: By a majority the Tribunal

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upholds the objection and disallows the question.

1 MR. LOGAN: Disallows the question or the
2 answer?

3 THE PRESIDENT: It follows we must disallow
4 both.

5 MR. TAVENNER: If the Tribunal please, in
6 closing my argument I failed to state what I did state
7 in the beginning, that there was also a motion to strike
8 the answer of the witness.

9 MR. LOGAN: His objection to the question
10 was disallowed. His motion was directed to the
11 answer, your Honor.

12 THE PRESIDENT: You can put that question
13 again if you like, Mr. Logan.

14 MR. LOGAN: That is what I intend to do,
15 your Honor.

16 Will the Court Reporter read it?

17 (Whereupon, the official Court Reporter
18 read as follows:)

19 "Q What was the information you received,
20 stating from whom you received it and when?"

21 MR. TAVENNER: If it is intended to ask this
22 question again of the witness, I want to make the same
23 objection.

24 THE PRESIDENT: He can tell us what there
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1 was reported to him to have been said by KIDO, but
2 we will exclude any opinion.

3 THE WITNESS: Could you please repeat the
4 question, so that I could get it?

5 BY THE PRESIDENT:

6 Q Did your subordinates report to you anything
7 said by KIDO? If so, what was it?

8 A No, I did not report anything said by KIDO.

9 BY MR. LOGAN:

10 Q Did they report anything to you?

11 MR. TAVENNER: I object, your Honor. That is
12 in the face of the ruling of the Tribunal.

13 THE PRESIDENT: We will allow hearsay to that
14 extent. We are excluding opinions only, not anything
15 that was said by KIDO to him or his subordinates. He
16 can tell us what was told to him by his subordinates,
17 if anything was said. All we are excluding are the
18 opinions of his subordinates as to KIDO's character or
19 reputation.

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1 MR. TAVENNER: But I understood, if the
2 Tribunal please, that the witness said that no
3 report was made to him of any statement to his
4 subordinates by KIDO.

5 THE PRESIDENT: We have his answer, but
6 I doubt whether it was as clear as that.

7 What did the witness say, please, court
8 reporter.

9 (Whereupon, the answer was read
10 by the official court reporter as follows:
11 "No, I did not report of anything said by
12 KIDO.")

13 THE PRESIDENT: That certainly is not an
14 answer to what I asked him.

15 BY MR. LOGAN (Continued):

16 Q Now, will you answer the question I just
17 had asked you, Mr. Stahmer: Did they report anything
18 to you about KIDO?

19 THE PRESIDENT: Did they tell him anything
20 about KIDO? If so, what was it?

21 A No, they did not tell me any definite thing
22 what KIDO said. They only told me how he was
23 regarded.

24 Q Was that based on actual contacts between
25 the subordinates of yours and KIDO?

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1 MR. TAVENNER: If the Tribunal please,
2 that question assumes that the former question
3 was admitted which the Tribunal ruled out, and
4 I therefore object to it.

5 MR. LOGAN: I think that question directly
6 follows after the last answer he gave.

7 THE PRESIDENT: Objection upheld.

8 Q Did you have any negotiations at all with
9 KIDO from 1938 on?

10 A No, I had never.

11 Q Do you know of anybody in the German
12 Government that ever had any negotiations with
13 KIDO?

14 A No, I never heard of any negotiations from
15 a member of the German Government with KIDO.

16 Q Do you know of any reasons why they would
17 never negotiate with KIDO?

18 MR. TAVENNER: If your Honor please, I
19 object to that question as calling for opinion,
20 surmise, speculation on the part of this witness.

21 THE PRESIDENT: Objection upheld.

22 Q Do you know of any acts or statements of
23 KIDO which would prevent the German Government from
24 negotiating with him?

25 MR. TAVENNER: Objection is made in that the

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1 witness has said he had not met the man, he had not
2 had any conference with him, and for the additional
3 reason that the attitude of Germany or the facts
4 necessary for action are not admissible to any
5 issue in this case.

6 THE PRESIDENT: We can see what you are
7 trying to get at, Mr. Logan, but the witness has
8 professed that he does not know enough to be able
9 to answer you. That is the sum total of his evidence
10 to date.

11 MR. LOGAN: I think he knows, your Honor.
12 I am trying to get it.

13 And, with respect to the objection which
14 was just made by my good friend, Mr. Tavenner, I
15 must say it comes as rather a surprise that he is
16 objecting to the opinions and the actions of the
17 German Government in a case where there is conspiracy
18 alleged. We are alleged to have conspired with that
19 government and they are alleged to have done certain
20 acts.

21 THE PRESIDENT: They are charged with con-
22 spiring with others, which might well include
23 individual Germans, including say, Ribbentrop and
24 Hitler.

25 MR. LOGAN: It may also include Mr. Stahmer

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1 as one of those "divers" persons." We do not know,
2 and the prosecution has never disclosed it to date,
3 who they are.

4 THE PRESIDENT: We have placed no limit
5 on what he can say as to what happened between him
6 and KIDO. It must be something that KIDO said or did,
7 and not some opinion expressed of him by others.

8 BY MR. LOGAN (Continued):

9 Q Did you have any reason for not dealing
10 with KIDO?

11 MR. TAVENNER: I object to it, if the
12 Tribunal please.

13 THE PRESIDENT: Objection overruled, clearly.
14 It all depends on what the answer is, of course. We
15 may have to strike that.

16 Q Answer, please.

17 A Will you please tell me the question again?

18 (Whereupon, the question was
19 read by the official court reporter
20 as follows: "Did you have any reason for not
21 dealing with KIDO?")

22 A (Continuing) I did not deal with KIDO,
23 because I did not have the slightest contact with
24 him, contrary to other statesmen and ministers here.
25 Therefore, I could not approach him.

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1 Q Turning now to another subject, Mr. Stahmer.
2 Would you, as a representative of the German
3 Government and the German Government know of the
4 secret military negotiations which were being
5 conducted between Great Britain and the United
6 States in the latter part of 1938 and 1939?

7 MR. TAVENNER: If the Tribunal please,
8 objection is made on the ground that the question
9 assumes that there was such a type of negotiation.

10 MR. LOGAN: Subject to further proof --

11 THE PRESIDENT: The question should be
12 directed to specific matters, Mr. Logan.

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1 Q Mr. Stahmer, do you know of meetings which were
2 held in Washington and London between military officials
3 of Great Britain and the United States -- particularly
4 navy officials -- in the latter part of 1938 and early
5 1939?

6 A Yes, I knew of that. I knew that at least two
7 secret negotiations took place, if I remember rightly,
8 when Singapore was taken out for a mutual defense base.

9 Q Did you and the German Government know that
10 at the time they were being held?

11 A Yes, the German Government knew that.

12 Q Did you and the German Government also know
13 of further secret military negotiations, principally
14 between admiralty officials, that were held in the
15 early part of 1941 between Britain and the United States?

16 A We heard about a meeting in the United States
17 and, if I remember rightly, it was in Washington.

18 Q Did you hear about that --

19 THE PRESIDENT: Mr. Tavenner.

20 MR. TAVENNER: Objection is made to this line
21 of testimony in that negotiations between the two
22 powers, if they occurred as of the dates mentioned,
23 could not be a matter in defense of the accused in this
24 case. We are not concerned with the Nuernberg trial
25 or the issues involved there. And on the additional

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1 ground that the witness' testimony is in the nature of
2 merely rumor.

3 THE PRESIDENT: We are not concerned with the
4 Nuernberg trial but we are concerned with some of the
5 subject matter which was passed upon there. If these
6 negotiations suggested took place, we may have to review
7 them here, but the information would be of no value
8 unless we know the source, certainly.

9 MR. LOGAN: Need I answer?

10 THE PRESIDENT: The objection is overruled.

11 Q Did you find out about these negotiations --

12 THE PRESIDENT: Mr. Logan, you are called upon
13 to show why KIDO is particularly affected by this. If
14 they do concern him with others, but no examination has
15 taken place about that, I do not see that you should
16 be prevented from asking questions. But do show how
17 you are particularly concerned, if you can.

18 MR. LOGAN: Marquis KIDC is included in fifty-
19 four out of fifty-five counts of the Indictment. The
20 only count with which he is not connected is, I believe,
21 a certain phase of the China Incident. What took
22 place in 1938, '39, '40, and '41 is very material to
23 his case. I might say that it involves an affirmative
24 defense of some of these accused, that is, the ABC
25 encirclement, economically and militarily. Without

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1 saying much more about it, I will be very frank that
2 what I want to bring out from this witness is that the
3 German Government at that time knew about these secret
4 agreements that were being made, which will be shown
5 later in the case, and also to show that they were
6 communicated to and knowledge was had of them by officials
7 of the Japanese Government. So that perhaps knowledge
8 of what was going on and the effect of the economic
9 sanctions and embargoes and the military encirclement,
10 as your Honor has once said, if Japan was driven to the
11 wall that would be in mitigation of what the leaders
12 did at that time. In other words, this is part of that
13 picture which we intend to show.

14 THE PRESIDENT: These general matters affecting
15 several of the accused should, of course, have been
16 brought out by Mr. Cunningham if he ascertained the
17 witness could depose to them. But if the witness can
18 depose to them are you to be precluded from bringing
19 them out if Mr. Cunningham failed? I am quite sure on
20 further consideration we would find you are not pre-
21 cluded. These rules that we are looking at now were
22 agreed upon by the parties, but you could never have
23 thought, nor could we, that they would cover every
24 possible contingency and here is one that they do not
25 cover.

1 MR. LOGAN: Well, as I announced, if your
2 Honor please, I am only asking these questions on behalf
3 of my client, not on behalf of anybody else.

4 MR. TAVENNER: If the Tribunal please, it is
5 almost inconceivable that counsel have not discussed
6 a matter of the importance that they attribute to this --
7 to these points -- or that the witness had not been
8 examined in regard to it. If Mr. Cunningham refused
9 to go into a general examination of this subject,
10 then the situation your Honor pictured would certainly
11 follow.

12 THE PRESIDENT: There is an additional fact.
13 This witness claims to know there were such negoti-
14 ations but he hasn't told us the source of his informa-
15 tion.

16 MR. TAVENNER: But we don't think that on the
17 basis of the present explanation that there is a
18 justification for avoiding the rule of the Tribunal
19 of reducing the statement to affidavit form.

20 THE PRESIDENT: There is a simple way out.
21 We can give full effect to the rules according to
22 their very letter and then let Mr. Logan recall this
23 witness on behalf of KIDO.

24 MR. LOGAN: I only have two more questions to
25 ask, your Honor.

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1 BY MR. LOGAN (Continued):

2 Q Did you know about those negotiations at
3 the time they were occurring in 1940 and '41 -- 1941
4 rather?

5 THE PRESIDENT: He said he heard there were
6 negotiations.

7 Q Where did you get that information? From
8 where did you get that information?

9 A I heard one information from Ribbentrop and
10 some other news I have had in the so-called ministerial
11 office of the Foreign Ministry where all the incoming
12 cables from the different embassies and legations came
13 in.

14 THE PRESIDENT: Major Blakeney.

15 MR. BLAKENEY: On behalf of Mr. TOGO.
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DIRECT EXAMINATION (Continued)

1 BY MR. BLAKENEY:

2 Q Mr. Witness, on page 3 of your affidavit,
3 section 3 thereof, you testified concerning the
4 negotiations in 1938 and 1939 between Germany and
5 Japan. With whom did Ribbentrop conduct those
6 negotiations?

7 A Ribbentrop conducted these negotiations
8 with OSHIMA.

9 Q General OSHIMA's position was then Military
10 Attache, was it not?

11 A He was at that time still Military Attache.

12 Q Who was the Japanese ambassador at that time?

13 A Ambassador TOGO.

14 Q Had Mr. TOGO anything to do with those
15 negotiations?

16 A No, not so far as I know.

17 Q When did those negotiations commence?

18 A I do not remember the exact date, but it was
19 in the summer of 1938.

20 Q And, do you remember when Ambassador TOGO
21 was transferred from Berlin to Moscow?

22 A I believe he was transferred in October, 1938.

23 Q Is it correct to say, as far as your infor-
24 mation goes, that from the beginning of those
25

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1 negotiations until his transfer Ambassador TOGO had
2 nothing to do with them?

3 MR. TAVENNER: Objection is made on the basis
4 that the question is grossly leading.

5 Q (Continued) Or not?

6 THE PRESIDENT: Well, you received your answer
7 from a Member of the Tribunal, Major Blakeney, who
8 told you it was grossly leading and impertinent.
9 The red light prevented me from saying anything.

10 MR. BLAKENEY: Well, I can see how the
11 question may have been leading but its impertinence I
12 am unable to recognize. I will try to put it in a
13 more unobjectionable form.

14 Q Mr. Witness, so far as your information goes,
15 what connection had Mr. TOGO, the then Ambassador to
16 Germany, with the negotiations conducted in the summer
17 of 1938, from the beginning thereof until his transfer
18 to the post of Ambassador at Moscow in October, 1938?

19 A As far as my information goes, Ambassador
20 TOGO has nothing to do with these negotiations from
21 the beginning until he left Berlin -- was transferred
22 to Moscow.

23 Q Did you ever personally talk with Ambassador
24 TOGO on this subject, that is, in 1938?

25 A No, I never talked with him personally about

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1 this subject.

2 Q How did you come to deal with Military
3 Attache OSHIMA on this question?

4 MR. TAVENNER: Objection is made, if the
5 Tribunal please, on the ground it is covered in the
6 general examination.

7 THE PRESIDENT: That is so.

8 Mr. Blakeney, before you go further, I am
9 asked to put this: How could German knowledge of
10 negotiations between England and the United States be
11 any defense or exculpation of the accused? Knowledge
12 of the accused might be. It may be that when that
13 was drafted Mr. Logan was examining the witness.

14 I could only suggest that you are charged
15 with conspiring with others, obviously including the
16 Germans, and anything that would tend to exculpate
17 them could be relied upon by you. If I understand
18 the charges rightly, the allegation of conspiracy is
19 not confined to the Pacific, but extending to Europe.
20 Neurnberg certainly thought the charges before them
21 embraced the Pacific.

22 MR. BLAKENEY: Shall Mr. Logan answer?

23 THE PRESIDENT: He can, if he wishes.

24 MR. LOGAN: In case there is any doubt, your
25 Honor, in the mind of the Judge who asked the question,

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1 it goes a little further than that, in that we are
2 endeavoring to show in the defendants' case that the
3 actions of the Western Powers, of which Japan and
4 others alleged in the conspiracy had knowledge at that
5 time, resulted in certain acts being taken by Japan.
6 In other words, what was done by the Western Powers,
7 knowledge of it came to the representatives of the
8 so-called Axis, brought about certain results, and
9 that is what we have been trying to show through this
10 witness, that Germany had knowledge of certain things
11 that had taken place, and we will show later that
12 certainly Japan had the same knowledge. In other
13 words, what the Western Powers were doing had a very
14 direct bearing on what Japan did.

15 THE PRESIDENT: Do you suggest that Japan
16 knew what Germany knew, an idea not even faintly
17 hinted at?

18 MR. LOGAN: I am trying to show, your Honor,
19 that Germany knew it and that Japan knew it, also that
20 these meetings were not so secret as what they were
21 thought to be at that time. And, they are a matter of
22 public knowledge at this time.

23 THE PRESIDENT: Well, that is a matter for
24 evidence.
25

26 (Continued)

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1 BY MR. BLAKENEY (Continued):

2 Q Mr. Witness, do you know whether the negoti-
3 ations between Ribbentrop and OSHIMA were kept secret
4 from Ambassador TOGO?

5 A I do not know if these negotiations were kept
6 secret from Ambassador TOGO.

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1 Q Did you receive orders from Ribbentrop con-
2 cerning the question of whether the negotiations should
3 be made known to Ambassador TOGO?

4 A No, I did not get such an order. I had only
5 to deal with Mr. OSHIMA.

6 Q Do I understand by that that your orders were
7 to deal only with OSHIMA?

8 THE PRESIDENT: Mr. Tavenner.

9 MR. TAVENNER: Objection is made to the ques-
10 tion as being grossly leading. This witness is on
11 direct examination, not cross-examination.

12 THE PRESIDENT: The question does suggest the
13 answer, Major Blakeney, and is objectionable as being
14 leading.

15 MR. BLAKENEY: His answer was patently
16 ambiguous, and I was merely trying to resolve the
17 ambiguity.

18 THE PRESIDENT: That is his task.

19 MR. BLAKENEY: Reporter, read to the witness
20 the second preceding question.

21 (Whereupon, the question was read by
22 the official court reporter as follows:

23 "Did you receive orders from Ribbentrop
24 concerning the question of whether the nego-
25 tiations should be made known to Ambassador TOGO?"

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1 Q Did you hear that and understand it,
2 Mr. Witness?

3 A Yes, I understood it. I did not get -- I got
4 an order from Ribbentrop; he made me liaison man to
5 OSHIMA to deal with him about this, the beginning of
6 these negotiations.

7 Q Are you able to state from your experience in
8 diplomacy whether negotiations of this character are
9 usually conducted with ambassadors or with military
10 attaches?

11 A Normally these negotiations were made between
12 ambassadors and foreign ministers.

13 Q Are you able to state why in this instance
14 negotiations were conducted between the foreign minister
15 on the one hand, and on the other, the military attache,
16 rather than the ambassador?

17 A I do not know the reason. Probably because
18 Ribbentrop knew OSHIMA before and during the negotiations
19 of the Anti-Comintern Pact.

20 Q Do you know what was the condition of relations
21 between Ribbentrop and TOGO at this time?

22 A The conditions seemed to me always rather cool,
23 at any rate in this time of summer, 1938. But I do
24 not know why.

25 Q In your affidavit on page 6, section 6, you

1 refer to some discrepancy between Ott's telegrams and
2 KURUSU's information concerning the attitude of Japan.
3 When you came to Tokyo at that time to investigate the
4 situation, what estimate did you form of the accuracy
5 of Ott's telegrams to the Foreign Office?

6 THE PRESIDENT: Mr. Tavenner.

7 MR. TAVENNER: Objection is made on the ground
8 that this matter generally is covered in the general
9 examination, and also on the ground that it calls for
10 an opinion from this witness.

11 THE PRESIDENT: Major Blakeney.

12 MR. BLAKENEY: First, it is not covered in
13 the general examination, unless I am overlooking some-
14 thing, because the affidavit states that since only
15 a confused impression was gathered by the German Foreign
16 Office, they sent him out to learn the actual conditions.
17 I am now pursuing that subject beyond the point to which
18 he took us in the affidavit, to ask him what he found
19 as a result of the investigation so made.

20 As to whether the result of his investigation
21 was his opinion, we are not concerned, because if it
22 was opinion, it was opinion officially formed in the
23 course of his official duties, and presumably, as he
24 points out, relied upon by his government in its official
25 acts.

1 THE PRESIDENT: Well, how does it affect
2 your client, particularly?

3 MR. BLAKENEY: As the Tribunal will well
4 remember, in many dozens or scores or perhaps more
5 instances, the telegrams of Ott were put into evidence
6 against these defendants, including my client,
7 Mr. TOGO. One example specifically affecting him is
8 of recent memory and I therefore mention it; that is,
9 Ott's telegram purporting to report the contents of
10 a speech made to the Diet by Foreign Minister TOGO
11 in early 1942. Comparison with the actual speech
12 now in evidence will show the importance of knowing
13 the reliability of Ott's reports; and this witness
14 was sent out officially by his government to ascertain
15 that fact of the reliability of Ott's reports, as is
16 inferentially apparent from the statement in section 6
17 of his affidavit.

18 THE PRESIDENT: Mr. Tavenner.

19 MR. TAVENNER: If it please the Tribunal, I
20 submit that there is no section -- or no part of
21 section 6 that warrants such a conclusion. The
22 declaration that the witness was sent to check up
23 on Ott's telegrams is apparently intended to be read
24 into section (a), which says "To find out the actual
25 intention of the Japanese Government towards Germany."

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1 The whole purpose in sending the witness to
2 Japan was to conclude this pact if it could be concluded,
3 according to the witness' testimony, and it is sub-
4 mitted the claim of the defense now that he was sent
5 there for another purpose certainly requires a very
6 strained construction.

7 MR. BLAKENEY: May I point out, in answer to
8 Mr. Tavenner's second argument, paragraph 6 of the
9 affidavit, the last sentence thereof, as follows:

10 "Incoming telegrams from Ambassador Ott of
11 the German Embassy in Tokyo and verbal information from
12 Ambassador KURUSU in Berlin created a completely con-
13 fused picture of the Japanese attitude from the view-
14 point of the German Government, which eventually could
15 not figure out what the Japanese Government had in
16 mind."

17 And in view of the confused picture, he was
18 ordered to go and investigate.

19 THE PRESIDENT: To shorten the matter, Major
20 Blakeney, I think we are all prepared to hear what he
21 found out about Ott and what he told Germany about Ott.

22 MR. BLAKENEY: Answer the question, please.

23 THE PRESIDENT: To that extent: What you found
24 out about Ott and what you told your government about
25 him.

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1 We will hear your answer after the recess.
2 We will recess for fifteen minutes.

3 (Whereupon, at 1445, a recess was
4 taken until 1500, after which the proceed-
5 ings were resumed as follows:)

6 MARSHAL OF THE COURT: The International
7 Military Tribunal for the Far East is now resumed.

8 THE PRESIDENT: Mr. Blakeney.

9 BY MR. BLAKENEY (Continued:)

10 Q Mr. Witness, will you please answer the ques-
11 tion asked by the President before the recess?

12 A I never had any order to investigate Ott or
13 any other person. I had only to study the political
14 situation here and, of course, I talked it over with
15 Ott personally. Then he told me that his telegram --
16 there was a certain mistake, and he told me a lengthy
17 story why, and so I did not make any report to Ribben-
18 trop or any other man.

19 Q By report, you mean on the question of accur-
20 acy of telegrams?

21 A Yes.

22 THE PRESIDENT: Mr. Tavenner.

23 MR. TAVENNER: It is too late now.

24 MR. BLAKENEY: I was trying to get the Pres-
25 ident's question fully answered, that he did not make

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1 a report, that's all.

2 Mr. PRESIDENT: Mr. Caudle..

3 DIRECT EXAMINATION (Continued:)

4 BY MR. CAUDLE:

5 Q Mr. Stahmer, will you please state where,
6 when and under what conditions you first met the
7 accused, SHIRATORI?

8 A I met Mr. SHIRATORI first in 1939 when he
9 was invited to Berlin during the birthday of Hitler.

10 Q Did you talk with him at that time, sir?

11 A I saw him twice during lunch and dinner,
12 and we talked together, but not politically.

13 Q When did you next see the accused?

14 A The next time I saw him was in February,
15 1940 during my short, first stay in Japan.

16 Q Was that when you were on your Red Cross
17 tour?

18 A Yes, that was during that time.

19 Q And I believe at that time you sent a wire
20 back --- I think it was signed "Ott-Stahmer," exhibit
21 511 --- wherein you stated that you found SHIRATORI,
22 OSHIMA, ISHII and others in the same friendly attitude,
23 is that correct, sir?

24 A Yes, that is correct.

25 Q Will you please explain the wire,-- the

1 nature of that wire?

2 THE PRESIDENT: That doesn't call for that.
3 I am addressing you, Mr. Caudle.

4 MR. CAUDLE: Excuse me, sir.

5 THE PRESIDENT: Is the wire ambiguous or
6 equivocal?

7 MR. CAUDLE: Well, sir, I would just like to
8 know under what circumstances he saw him.

9 MR. PRESIDENT: You asked him to explain a
10 telegram. I don't know what you mean.

11 Q Will you explain under what circumstances
12 you saw the accused SHIRATORI at that time?

13 A I saw him together with some other Japanese
14 gentleman whose name I do not remember, and we talked
15 about general topics together with this other gentleman.

16 Q When did you next see the accused?

17 A I do not remember if I saw him on my way back
18 from the United States, but at any rate I saw him dur-
19 ing or after the conclusion of this Tri-Partite Pact,
20 because there were several invitations; many people
21 appeared.

22 Q Will you please state, if you know, what part
23 the accused took in the formulation or the conclusion
24 of the Tri-Partite Pact?

25 A I knew that he was an adviser of the Foreign

Minister, but I don't know what part he took in the negotiations; I did not talk with him.

Q Did he ever sit in on any of the discussions?

A No, he was not present. There were always only MATSUOKA and Ott present, and in the end I saw Mr. SAITO and Mr. MATSUMOTO; only for technical small details, not in the meeting.

Q Did you ever discuss the Tri-Partite Pact in any way whatsoever with the accused?

A I do not remember. It may be that we talked it over during these dinners and lunches after the signatures to the Pact.

Q Did you have any discussion with him prior to the conclusion of the Pact?

A No, I talked only with MATSUOKA.

Q Do you know how many times Mr. SHIRATORI met Mr. Ribbentrop?

A He could have met him only during the fiftieth birthday of Hitler, in April 1938 -- 1939.

Q Then you mean they met only once?

A Only during those two or three days -- I donnot know exactly how long he stayed -- in April 1939.

Q Then, under the circumstances, Mr. Ribbentrop could not have known Mr. SHIRATORI very well, is that correct?

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2 the negotiations; I did not talk with him.

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19 fiftieth birthday of Hitler, in April 1938 -- 1939.

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22 I donnot know exactly how long he stayed -- in April
23 1939.

24 Q Then, under the circumstances, Mr. Ribben-
25 trop could not have known Mr. SHIRATORI very well,
is that correct?

1 Q With respect to the strengthening of the
2 Anti-Comintern Pact, you state that most of the ne-
3 gotiations were made with Italy through Germany.
4 Will you please explain that, sir.

5 A During the negotiations in Munich, in
6 September, 1939, Ribbentrop and Hitler talked at first
7 about this idea with Mussolini, and Mussolini agreed
8 immediately, principally, and told them he must think
9 it over when a suitable time would become to go on
10 with these negotiations -- to begin with these ne-
11 gotiations from the side of Italy. As far as I
12 remember, he told that in beginning of January,
13 1940 -- not 1939.

14 I was wrong. This was in beginning of 1939.

15 Q Those negotiations were carried on strictly
16 between Germany and Italy through either Mussolini
17 or Ciano or Ribbentrop or Mr. Hitler, is that cor-
18 rect?

19 A That is correct. In October, 1938 Ribben-
20 trop again -- Ribbentrop went to Rome and talked again
21 with Mussoline and with Ciano; and later -- at that
22 time Italian Ambassador in Berlin, Attolico, was
23 informed, too, and worked together in these negotia-
24 tions.

25 MR. CAUDLE: Thank you.

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THE PRESIDENT: Major Furness.

MR. FURNESS: Direct examination on behalf
of the defendant SHIGEMITSU.

DIRECT EXAMINATION (Continued)

BY MR. FURNESS:

Q Stahmer, in your conversations with
Foreign Minister SHIGEMITSU, did you conduct them
in English or in some other language?

A We talked together in English.

Q And were writings which you presented to
him in English or in some other language?

A Mostly in English. Of course, official
communications were made in German with an English
translation.

Q Towards the end of August, 1938, did you
have a conversation with Foreign Minister SHIGEMITSU?

A In 1938 --

Q I'm sorry; in 1944.

A Yes, in 1944 I had, in August, several con-
versations with him.

Q What was this conversation about?

A It was, I believe, in the second half or
against the end of August, a conversation about the
necessity of -- or possibility of coming to an under-
standing between Germany and Russia with the idea to

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1 make peace.

2 Q Did such discussion relate only to peace
3 between Germany and Soviet Russia or did it also
4 include that as a first step towards general peace?

5 A The idea was to try to come to peace be-
6 tween Germany and Russia and then to use this situa-
7 tion for a common peace between all nations con-
8 cerned.

9 Q Did you report this conversation to your
10 government?

11 A I reported this conversation to my govern-
12 ment.

13 Q Later, about the middle of September, did
14 you have another conversation with Foreign Minister
15 SHIGEMITSU?

16 A Yes, I had another conversation; and, after,
17 I got answer on my cable to Berlin.

18 MR. FURNESS: I ask that the witness be
19 shown the original of defense document 1770.

20 (Whereupon, a document was handed
21 to the witness.)

22 Q Do you recognize that document?

23 A Yes, I recognize the document.

24 Q Did you bring it with you to this confer-
25 ence about the middle of September?

1 A Yes, I had that document especially trans-
2 lated in English and brought it to Mr. SHIGEMITSU.

3 Q And you delivered it to him as an official
4 communication?

5 A Oh, I gave him my official communication
6 verbally, but I gave him this written paper so that
7 no misunderstanding could arise, as a sort of aide
8 memoire.

9 Q And that document is the document which you
10 now have in the box?

11 A Yes, that is this document.

12 MR. FURNESS: I offer in evidence defense
13 document 1770.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Defense document 1770
16 will receive exhibit No. 2745.

17 (Whereupon, the document above re-
18 ferred to was marked defense exhibit No.
19 2745 and received in evidence.)

20 MR. FURNESS: I will read defense exhibit
21 2745, beginning on page 2, paragraph numbered 3:

22 "Ambassador OSHIMA informed the Fuhrer about
23 the Japanese Government's suggestion concerning a
24 separate peace between Germany and the Soviet Union.
25 The Fuhrer explained the German point of view as

follows:

1 "a) We have no indications that the Soviet
2 Government is ready for an understanding with Germany.
3 We believe that Stalin will try to come to an under-
4 standing with Germany only then, when he is con-
5 vinced that he cannot successfully continue the war
6 or that, at least, his forces are not sufficient to
7 defeat Germany.

8 "b) If this should happen, a new political
9 situation will be created.

10 "c) The German Government fully appreciate
11 the Japanese Government's suggestion. However, on
12 account of the above-stated explanations, the German
13 Government would be obliged, if the Japanese Govern-
14 ment in this matter would refrain from all steps with
15 the Soviet Government.

16 "On the question of Ambassador OSHIMA, if
17 the German war aims vis a vis Soviet Russia have
18 changed, the Fuhrer replied, that Stalin did not ask
19 for peace negotiations when the German troops were
20 on the Don and that the same holds good for Germany
21 under the present circumstances."

22 Q At that time, did you have a discussion
23 with Foreign Minister SHIGEMITSU?
24

25 A Yes, we had a discussion.

1 Q Did it relate to this proposal of peace
between Soviet Russia and Germany?

2 A Yes.

3 Q Did you include that as the first step
4 towards general peace between all countries involved
5 in the war?

6 THE PRESIDENT: Mr. Tavenner.

7 MR. TAVENNER: If the Tribunal please,
8 this, in the prosecution's view, is an inexcusable
9 use of a leading question to which we object.

10 THE PRESIDENT: The objection is upheld.
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1 Q Did the discussion relate only to peace
2 between Germany and Soviet Russia or did it relate
3 to peace with any other countries?

4 MR. TAVENNER: If the Tribunal please, I
5 would like to make the same objection to this question.

6 THE PRESIDENT: Objection upheld.

7 What was the discussion about, Witness?

8 THE WITNESS: The discussions were about these
9 possibilities of coming to an understanding and peace
10 with Russia. I was mostly interested to know if there
11 was any background or any knowledge from the side of
12 the Japanese government which I could never find out.
13 The general idea was that when such an understanding
14 was possible it should be a platform for making peace
15 with the other nations too.

16 Q Were these talks initiated by the Foreign
17 Minister SHIGEMITSU?

18 A Yes, they were.

19 Q Was he for or against negotiation of peace
20 between Germany and Russia and with other countries?

21 A He was for it and he proposed it.

22 MR. FURNESS: There is no further direct
23 examination, if your Honor please, on the part of the
24 defense counsel.

25 THE PRESIDENT: Mr. Tavenner.

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1 MR. TAVENNER: If the Tribunal please, do I
2 understand that there will be no further cross-
3 examination -- or redirect examination -- on the part
4 of the first counsel who examined, Mr. Cunningham?

5 THE PRESIDENT: That question is premature,
6 if I appreciate the situation. Neither defense
7 counsel nor the Tribunal can answer that question yet.
8 The defense announced there would be no further exam-
9 ination.

10 MR. TAVENNER: I did not intend, your Honor,
11 to use the word "cross-examination."

12 THE PRESIDENT: But you spoke about redirect.

13 MR. FURNESS: On that I meant "direct examina-
14 tion." I think I said "redirect examination."

15 THE PRESIDENT: Do not be so sharp on the up-
16 take, Mr. Tavenner.

17 CROSS-EXAMINATION

18 BY MR. TAVENNER:

19 Q Mr. Stahmer, you explained in your affidavit
20 the reasons why you were without the possibility of a
21 party career. Did you not arise to the rank of
22 ambassador at large in Germany?

23 A I became ambassador at large in Germany and
24 later ambassador in China and here, but that has nothing
25 to do with party career. What I meant was I was never

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1 promoted in the party; I couldn't be promoted in
2 the party and I got no rank there.

3 Q You were also named consul general in
4 1940, were you not?

5 A I became the character consul general in
6 January 1940 -- the character as consul general, the
7 title.

8 Q To whose influence in Germany was your pre-
9 ferment in the various positions of ambassador at
10 large, ambassador to China, ambassador to Japan, and
11 consul general due?

12 A I was proposed from Ribbentrop, the Foreign
13 Minister, in 1938 and promoted from Hitler as the
14 other officials from the German Embassy here too.

15 Q Was it due then to this special influence
16 and friendship of Ribbentrop that you, a person not
17 entitled to receive or to have a party career, that
18 was responsible for your various elevations?

19 A I was promoted because Ribbentrop was satis-
20 fied with my work.

21 MR. TAVENNER: I cannot help but observe
22 that you have a document of some type in your hands.

23 THE WITNESS: This is the affidavit.

24 MR. TAVENNER: I would appreciate it if you
25 not refer to it during my questions on matters that

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1 are contained in the affidavit.

2 Q Upon the conclusion of the German-Soviet
3 Non-Aggression Pact on August 23, 1939, did the
4 Japanese continue in their efforts to effect a
5 Japanese-German alliance?

6 A No, after the conclusion of the Russian-
7 German Non-Aggression Pact we got a cable in which
8 the Japanese government told us that the negotiations
9 were broken off.

10 Q Did you have access to the files of
11 Ribbentrop or the Foreign Office?

12 A Most generally I could only read what was
13 offered to me to read.

14 Q But generally speaking you had access to
15 those files for the reading of matters that you were
16 interested in and which were connected with your
17 assignments, were you not?

18 A Of course, I could get these cables, docu-
19 ments, which were necessary for my work.

20 Q Did you see in the files of the German
21 Foreign Office a telegram from Mackensen, German
22 ambassador to Rome, directed to Ribbentrop, regarding
23 a conversation between Ambassador SHIRATORI and Macken-
24 sen on the 2d day of September 1939 in which SHIRATORI
25 expressed the opinion that with a new Japanese cabinet

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1 there was a well-founded chance for successful con-
2 tinuation of the stalled rapprochement with the
3 Axis powers and for the purpose of being able to
4 work more effectively he was returning to Tokyo?

5 A No, I have not seen the telegram.

6 Q Were you advised of the contents of that
7 telegram?

8 A No, I am not advised.

9 Q Were you informed or did you learn that
10 SHIRATORI soon after his return to Tokyo, in a con-
11 ference with Ambassador Ott, offered close cooperation
12 in working toward a non-aggression pact between Japan
13 and Russia with the further aim of active cooperation
14 between Germany, Japan, Russia and Italy?

15 A No, I was not informed of that telegram.

16 Q Now, the first telegram that I mentioned,
17 that is the one of September 2, 1939, is prosecution's
18 exhibit 2232 and is found at page 16,003 of the
19 transcript. As to this second telegram relating to
20 the conference between SHIRATORI and Ambassador Ott
21 in Japan, let me see if I can refresh your recollection.

22 Do you recall whether you heard that SHIRATORI
23 was counting on an early failure of the ABE cabinet
24 soon after his return to Japan?

25 A No, I did not hear that.

1 Q The date of the matters I am referring to
2 was in October 1939. Do you recall receiving the
3 information at this same time that SHIRATORI con-
4 sidered that there had been a weakening in the army
5 circles due to the costly military defeat at Nomon-
6 han? Does that refresh your recollection?

7 A No, I am sorry. I cannot recall any con-
8 nection between SHIRATORI and the incident at
9 Nomonhan.

10 Q Do you have any knowledge of the political
11 activities of SHIRATORI in Japan between the time
12 of his return as Ambassador from Italy and the time
13 of your trip to Japan in 1940?

14 MR. CAUDLE: I would like to object to
15 this line of questioning. Mr. Stahmer was in Germany
16 in 1939 and Mr. SHIRATORI came to Tokyo in October,
17 1939. How could he know?

18 THE PRESIDENT: He could know, and he was
19 merely asked whether he did know.

20 The objection is overruled.

21 A No, I did not know. I only heard in 1940
22 that he became adviser of MATSUOKA.

23 Q Was that legal adviser?

24 A That is a very difficult position which I
25 only found here in Japan. I heard there were different

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1 types of advisers. Some of these advisers would be
2 nominated by the ministers themselves, and some, as
3 far as I heard, were nominated by the Prime Minister
4 or the Governor or the Government. I do not know if
5 there were what you call "legal advisers."

6 THE MONITOR: Mr. Tavenner, by "legal
7 advisers" do you mean that they were legally ap-
8 pointed advisers, not the adviser on legal matters?
9 I would like to ascertain that in our translation.

10 THE PRESIDENT: Adviser on legal matters.

11 Q Do you know whether SHIMAZU was appointed
12 adviser by the Foreign Minister?

13 A I do not know. I only know that he was
14 adviser of MATSUOKA.

15 Q The German-Soviet Non-Aggression Pact was
16 concluded on the 23rd of August, 1939. What was the
17 date of your alleged conversation with Ambassador
18 OSHIMA in which you claimed that you notified him
19 that the pact had been signed?

20 A I cannot recollect the exact date, but I
21 know that it was immediately after the first return
22 of Ribbentrop from Moscow.

23 Q And can you not fix the date?

24 A No, I am sorry. I remember Ribbentrop went
25 to Moscow twice, and after his first trip he told me

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1 to inform Ambassador OSHIMA. I cannot remember
2 exactly.

3 Q Where was Ribbentrop at the time that you
4 claimed that you notified OSHIMA?

5 A As far as I remember he came back from
6 Moscow. I was in Berlin, and he took the plane,
7 I suppose, to Bertchesgaden.

8 Q Well, was it before the signing of the pact
9 on the 23rd of August or after the signing of the
10 pact that you notified OSHIMA?

11 A I believe after the 23rd, after the signing
12 of the pact.

13 Q About how many days?

14 A Very shortly after the return of Ribbentrop.

15 Q As a matter of fact, Mr. Stahmer, had not
16 Ambassador OSHIMA been notified of the proposed pact
17 by Ribbentrop himself as early as the evening of
18 August 21, 1939?

19 A I know that Ribbentrop told me to inform
20 Ambassador OSHIMA because it was a very difficult
21 task for me, and that he ordered me to tell him that
22 the German-Russian Aggression Pact was concluded and
23 he, Ribbentrop, would come to see OSHIMA as soon as
24 possible and talk the situation over with him.

25 THE PRESIDENT: We will adjourn until half-

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1 past nine tomorrow morning.

2 (Whereupon, at 1600, an adjourn-
3 ment was taken until Tuesday, 17 June 1947,
4 at 0930.) - - - -

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